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Commentary on the Constitu

कस्मिन्नु भगवो विज्ञाते
सर्व्वमिदं विज्ञातं भवतीति।

—मुण्डकोपनिषद् (१।१।३)

What is That, O Sir,
By knowing which
We may know
All that is to be known?

—Mundaka Upanishad (I.i.3)

"No more vital truth was ever uttered than that freedom and free institutions cannot long be maintained by any people who do not understand the nature of their own government."—WOODROW WILSON.

COMMENTARY
ON THE
CONSTITUTION OF INDIA

VOLUME SIX

CONSTITUTIONAL DOCUMENTS

*

COMMENTARY
ON THE
CONSTITUTION OF INDIA

(Being a comparative treatise on the universal principles of Justice and Constitutional Government with special reference to the organic instrument of India)

BY

DURGA DAS BASU

FIFTH EDITION

Revised and Enlarged

S. C. SARKAR & SONS (PRIVATE) LTD.

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PREFACE

TO THE

FIFTH EDITION

(VOLUME SIX)

The fourth Edition of this Commentary was complete in five Volumes,—dealing with the text of the Constitution, from its Preamble to the Ninth Schedule.

In the Fifth Edition, the Author proposes to present additional materials before the reader, so that whatever information may normally be required by a research worker, politician or practitioner on the subject may be had from a set of this Commentary alone. Every attempt will be made to keep each Volume up-to-date, by re-editing a particular Volume as and when it runs out, irrespective of its order in the Series.

As the Table of Contents will show, the present Volume contains important Constitutional Documents, including the latest Constitution Amendment Act. The Part on Acts, Rules and Orders will be completed in the next Volume.

9/4, Middleton Row, Calcutta 16
November, 1966

THE AUTHOR.

FROM THE PREFACE TO THE FIRST EDITION

As DR. AMBEDKAR observed in the Constituent Assembly, it is impossible to frame a Constitution which is absolutely new or original, at this hour in the history of the world. "The only new things, if there be any, in a Constitution framed so late in the day are the variations made to remove the faults and to accommodate it to the needs of the country." A proper understanding of *our Constitution* is not thus possible unless it is studied with reference to the Constitutions of other countries, particularly those from which the framers of *our* Constitution have borrowed provisions or ideas, and the interpretation put by the Courts upon those provisions. Ever since the Constituent Assembly first sat in December, 1946, I cherished the desire of preparing such a Commentary on *our* Constitution as would not only explain it in the light of analogous provisions of other Constitutions, but would also place *our* Constitution in a distinctive position amongst the leading Constitutions of the world, by elucidating the points upon which the framers of *our* Constitution have sought to improve, in the light of experience gathered from elsewhere.

The method of treatment adopted in this work, is therefore, *comparative*. Though this has inevitably led to an increase in the bulk, the reader would find in this book a commentary not only on the Constitution of India, but also on the parallel provisions of the Constitutions of the *United States, Eire, Australia, Canada, South Africa, Japan, the Republic of France, Burma* and *Ceylon*, with important decisions available up to 1948-49. . . . . Though the Constitution of *England* is unwritten and we do not get codified expressions, it is commonplace to point out that the immutable principles of modern constitutional government were first evolved in Britain and that no later Constitution adopting the Parliamentary system of government could do without drawing from the basic principles of England. Even the fathers of the American Constitution were guided by those fundamental English principles, though, owing to difference in the soil, the traces of their English origin are at places obliterated beyond recognition. So, these principles of English Common Law, as modified by important legislation, have also found a place in this Commentary. In order to avoid confusion, the comments under each Article have been divided under two heads: (*a*) 'OTHER CONSTITUTION'; (*b*) 'INDIA'. For a ready reference to the annotation of the clauses of *our* Constitution, only the contents under the head 'INDIA' need be referred to.

So far as the Author is aware, such a systematic comparison of different Constitutions, from the standpoint of legal interpretation, has not so far been attempted in any other work.

A Constitution may be studied from different points of view,—legal, political, sociological and the like. The object of this work, primarily, is to present a *juridical* interpretation of the Constitution of India as may be of use in the Courts, where the application, progress and development of the Constitution would be shaped. On the other hand, though the object of this commentary is a juridical study of the Constitution,—the political and constitutional aspects, too, have been given full attention to, so that the publication may be of use to statesmen, parliamentarians and students of Political Science and Comparative Politics. . . . . Again, constitutional interpretation from the legal standpoint becomes hollow without reference to existing laws, with reference to which the question of interpretation has arisen and will arise. So, the book contains a reference to the statute law under the major Constitutions, particularly of *England, the United States* and *India*. . . . . .

November 1, 1950. THE AUTHOR.

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Directors, elect Seven Persons to be with the Persons to be appointed by Her Majesty as hereinafter mentioned the First Members of the Council under this Act, and the Names of the Persons so elected by the Court of Directors shall be forthwith, after such Election, certified to the Board of Commissioners for the Affairs of *India*, under the Seal of the said Company, and it shall be lawful for Her Majesty, by Warrant under Her Royal Sign Manual, within Thirty Days after the passing of this Act, to appoint to be Members of such Council Eight Persons: Provided always, that if the Court of Directors of the *East India* Company shall refuse or shall for such Fourteen Days neglect to make such Election of such Seven Persons, and to certify the Names of such Persons as aforesaid, it shall be lawful for Her Majesty, by Warrant under Her Royal Sign Manual, within Thirty Days after the Expiration of such Fourteen days, to appoint from among the said Directors Seven Persons to make up the full Number of the said Council: Provided also, that if any Person being or having been such Director, and elected or appointed as aforesaid, shall refuse to accept the Office, it shall be lawful for Her Majesty, by Warrant under Her Royal Sign Manual, to appoint in the Place of every Person so refusing some other Persons to be a Member of the Council, but so that Nine Members of the Council at the least shall be Persons qualified as hereinafter mentioned.

Vacancies in the Council how to be filled up.

IX. Every vacancy happening from Time to time among the Members of the Council appointed by Her Majesty, not being Members so appointed by reason of the Refusal or Neglect of the Court of Directors or the Refusal to accept Office hereinbefore mentioned, shall be filled up by Her Majesty, by Warrant under Her Royal Sign Manual, and every other Vacancy shall be filled up by the Council by Election made at a Meeting to be held for that Purpose.

The major Part of the Council, with certain Exceptions, to be Persons who shall have served or resided Ten Years in India.

X. The major Part of the Persons to be elected by the Court of Directors, and the major Part of the Persons to to be first appointed by Her Majesty after the passing of this Act to be Members of the Council, shall be Persons who shall have served or resided in *India* for Ten Years at the least, and (excepting in the Case of late and present Directors and Officers on the Home Establishment of the *East India* Company who shall have so served or resided) shall not have last left *India* more than Ten Years next preceding the Date of their Appointment; and no Person other than a Person so qualified shall be appointed or elected to fill any Vacancy in the Council unless at the Time of the Appointment or Election Nine at the least of the continuing Members of the Council be Persons qualified as aforesaid.

Tenure of Office of Members of the Council

XI. Every Member of the Council appointed or elected under this Act shall hold his Office during the good Behaviour; provided that it shall be lawful for Her Majesty to remove any such Member from his Office upon an Address of both Houses of Parliament.

Members of Council not to sit in Parliament

XII. No Member of the Council appointed or elected under this Act shall be capable of sitting or voting in Parliament.

Salaries of Members of Council.

XIII. There shall be paid to each Member of the Council the yearly Salary of One thousand two hundred Pounds, out of the Revenues of *India*.

As to Retiring Pensions etc.

XIV. Any Member of the Council may, by Writing under his Hand, which shall be recorded in the Minutes of the Council, resign his Office, and it shall be lawful for Her Majesty, by Warrant under Her Royal Sign Manual, countersigned by the Chancellor of the Exchequer, to grant to any Person who, having held the Office of Member of the Council for the Period of Ten Years or upwards, shall so resign by reason of Infirmity disabling him from a due Execution of the Duties of the Office, a Retiring Pension during Life of Five hundred Pounds: Provided, that if at any Time hereafter it should appear to Parliament expedient to reduce the Number or otherwise deal with the Constitution of the said Council, no Member of Council who has not served in his Office for a Period of Ten Years shall be entitled to claim any Compensation for the Loss of his Office, or for any Alteration in the Terms and Conditions under which the same is held.

Secretaries and Officers on the Home Establishment of Company to form the Establishment of the Secretary of State in Council.

XV. The Secretaries and other Officers and Servants of the Home Establishment of the said Company, and on the Establishment of the Commissioners for the Affairs of *India*, immediately before the commencement of this Act, shall on such Commencement be and form the Establishment of the Secretary of State in Council; and the Secretary of State shall with all convenient Speed make such Arrangement of the said Establishments, and such Reductions therein, as may seem to him consistent with the due Conduct of the Public Business, and shall within Six Months after the Commencement of this Act submit a Scheme for the permanent Establishment to Her Majesty in Council; and it shall be lawful for Her Majesty, by the Advice of Her Privy Council, upon Consideration of such Scheme, to fix and declare what shall constitute and be the Establishment of the Secretary of State in Council, and what Salaries shall be paid to the Persons on the Establishment, and the Order of Her Majesty in Council shall be laid before both Houses of Parliament within Fourteen Days after the making thereof, provided Parliament be then sitting, or otherwise within Fourteen Days after the next Meeting thereof; and after such Establishment has been formed by such Order in Council no addition of Persons shall be made to such Establishment, nor any Addition made to the Salaries authorized by such Order, except by a similar Order in Council, to be laid in like Manner before both Houses of Parliament.

Secretary of State to submit a Scheme for a permanent Establishment.

As to Removal of Officers and Supply of Vacancies after First Formation of Establishment.

XVI. After the First Formation of the Establishment it shall be lawful for the Secretary of State in Council to remove any Officer or Servant belonging thereto and also to make all Appointments and Promotions to and in such Establishment; provided that the Order of Her Majesty in Council of the Twenty-first Day of *May* One thousand eight hundred and fifty-five, or such other Regulations as may be from Time to Time established by Her Majesty for Examinations, Certificates, Probation, or other Tests of Fitness, in relation to Appointments to junior Situations in the Civil Service, shall apply to such Appointments on the said Establishment.

Compensations to Officers on Home Establishment of the Company and of Board of Control not retained on new Establishment.

XVII. It shall be lawful for Her Majesty, by Warrant under Her Royal Sign Manual countersigned by the Chancellor of the Exchequer, to grant to any Secretary, Officer or Servant on the Home Establishment of the Company, or on the Establishment of the said Commissioners, who in consequence of such Reduction as aforesaid by the Secretary of State or under such Order in Council is not retained on the Establishment of the Secretary of State in Council, any Compensation, either by way of a gross or annual Payment, as, having regard to the Circumstances, may seem just.

As to Superannuation to Officers.

XVIII. It shall be lawful for Her Majesty, by Warrant countersigned as aforesaid, to grant to any such Secretary, Officer, or Servant as aforesaid, retained on such last-mentioned Establishment, such Compensation, Superannuation, or Retiring Allowance on his ceasing to hold Office as might have been granted to him if this Act had not been passed, and the Transfer of any Person to the Service of the Secretary of State in Council shall be deemed to be a Continuance of his previous Appointment or Employment, and shall not prejudice any Claims which he might have had in respect of Length of Service if his Service under the said Company or Commissioners had continued; and it shall be lawful for Her Majesty, by Warrant countersigned as aforesaid, to grant to any Secretary, Officer, or Servant appointed on the said Establishment after the First Formation thereof such Compensation, Superannuation, or Retiring Allowance as, under the Act of the Session holden in the Fourth and Fifth Years of King *William* the Fourth, Chapter Twenty-four, or any other Act for the Time being in force concerning Superannuations and other Allowances to Persons having held Civil Offices in the Public Service, may be granted to Persons appointed on the Establishment of One of Her Majesty's Principal Secretaries of State.

Duties and Procedure of the Council.

Duties of the Council.

XIX. The Council shall, under the Direction of the Secretary of State, and subject to the Provisions of this Act, conduct the Business transacted in the United Kingdom in relation to the Government of *India* and the Correspondence with *India*, but every Order or Communication sent to *India* shall be signed by One of the Principal Secretaries of State; and, same as expressly provided by this Act, every Order in the United Kingdom in relation to the Government of *India* under this Act shall be signed by such Secretary of State; and all Despatches from Governments and Presidencies in *India*, and other Despatches from *India*, which if this Act had not been passed should have been addressed to the Court of Directors or to their Secret Committee, shall be addressed to such Secretary of State.

Secretary of State to divide the Council into Committees, and to regulate the Transaction of Business.

XX. It shall be lawful for the Secretary of State to divide the Council into Committees for the more convenient Transaction of Business, and from Time to Time to rearrange such Committees, and to direct what Departments of the Business in relation to the Government of *India* under this Act shall be under such Committees respectively, and generally to direct the Manner in which all such business shall be transacted.

President and Vice-President.

XXI. The Secretary of State shall be the President of the Council, with Power to vote, and it shall be lawful for such Secretary of State in Council to appoint from Time to Time any Member of such Council to be Vice-President thereof, and any such Vice-President may at any Time be removed by the Secretary of State.

Meetings of the Council.

XXII. All Powers by this Act required to be exercised by the Secretary of State in Council, and all Powers of the Council, shall and may be exercised at Meetings of such Council, at which not less than Five Members shall be present, and at every Meeting the Secretary of State, or in his Absence the Vice-President, if present, shall preside, and in the Absence of the Secretary of State and Vice-President, One of the Members of the Council present to preside at the Meeting; and such Council may act notwithstanding any Vacancy therein: Meetings of the Council shall be convened and held when and as the Secretary of State shall from Time to Time direct; provided that One such Meeting at least be held in every Week.

Procedure at Meetings.

XXIII. At any Meeting of the Council at which the Secretary of State is present, if there be a Difference of Opinion on any Question other than the Question of the Election of a Member of Council, or other than any Question with regard to which a Majority of the Votes at a Meeting is herein-after declared to be necessary, the Determination of the Secretary of State shall be final; and in case of an Equality of Votes at any Meeting of the Council, the Secretary of State, if present, and in his Absence the Vice-President, or presiding Member, shall have a Casting Vote; and all Acts done at any Meeting of the Council in the Absence of the Secretary of State, except the Election of a Member of the Council, shall require the Sanction or Approval in Writing of the Secretary of State; and in case of Difference of Opinion and Question decided at any Meeting, the Secretary of State may require that his Opinion, and the Reasons for the same, be entered in the Minutes of the Proceedings, and any Member of the Council who may have been present at the Meeting may require that his Opinion, and any Reasons for the same that he may have stated at the Meeting, be entered in like Manner.

Orders, etc., to be open to the Perusal of Members of Council, who may record their Opinions.

XXIV. Every Order or Communication proposed to be sent to *India*, and every Order proposed to be made in the United Kingdom by the Secretary of State, under this Act, shall, unless the same has been submitted to a Meeting of the Council, be placed in the Council Room for the Perusal of all Members of the Council during Seven Days before the sending or making thereof, except in the Cases herein-after provided; and it shall be lawful for any Member of the Council to record in a Minute Book, to be kept for that Purpose, his Opinion with respect to each such Order or Communication, and a Copy of every Opinion so recorded shall be sent forthwith to the Secretary of State.

Secretary of State acting against Opinions of the Majority to record his Reasons.

XXV. If a Majority of the Council record as aforesaid, their Opinions against any Act proposed to be done, the Secretary of State shall, if he do not defer to the Opinions of the Majority, record his Reasons for acting in opposition thereto.

Regulations to be made for admitting Persons to be examined for Cadetships in Engineers and Artillery.

XXXIV. With all convenient Speed after the Commencement of this Act, Regulations shall be made for admitting any Persons being natural-born Subjects of Her Majesty (and of such Age and Qualifications as may be prescribed in this Behalf) who may be desirous of becoming Candidates for Cadetships in the Engineers and in the Artillery, to be examined as Candidates accordingly, and for prescribing the Branches of Knowledge in which such Candidates shall be examined and generally for regulating and conducting such Examinations.

Not less than One Tenth of Persons recommended for Military Cadetships to be selected from Sons of Persons who have served in India.

XXXV. Not less than One Tenth of the whole Number of Persons to be recommended in any Year for Military Cadetships (other than Cadetships in the Engineers and Artillery) shall be selected according to such Regulations as the Secretary of State in Council may from Time to Time make in this Behalf from among the Sons of Persons who have served in *India* in the Military or Civil Services of Her Majesty, or of the *East India* Company.

Nominations for Cadetships to be made by Secretary of State and Members of Council.

XXXVI. Except as aforesaid, all Persons to be recommended for Military Cadetships shall be nominated by the Secretary of State and Members of Council, so that out of Seventeen Nominations the Secretary of State shall have Two and each Member of Council shall have One; but no Person so nominated shall be recommended unless the Nomination be approved of by the Secretary of State in Council.

Regulations as to Appointments and Admissions to Service.

XXXVII. Save as herein-before provided, all Powers of making Regulations in relation to Appointments and Admissions to Service and other Matters connected therewith, and of altering or revoking such Regulations, which if this Act had not been passed might have been exercised by the Court of Directors or Commissioners for the Affairs of *India*, may be exercised by the Secretary of State in Council, and all Regulations in force at the Time of the Commencement of this Act in relation to the Matters aforesaid shall remain in force subject nevertheless to Alteration or Revocation by the Secretary of State in Council as aforesaid.

As to Removal of Officers by Her Majesty.

XXXVIII. Any Writing under the Royal Sign Manual, removing or dismissing any Person holding any Office, Employment, or Commission, Civil or Military, in *India*, of which, if this Act had been passed, a Copy would have been required to be transmitted or delivered within Eight Days after being signed by Her Majesty to the Chairman or Deputy Chairman of the Court of Directors shall, in lieu thereof, be communicated within the Time aforesaid to the Secreary of State in Council.

Transfer of Property.

Real and Personal Property of the Company to vest in Her Majesty for the Purpose of the Government of India.

XXXIX. All Lands and Hereditaments, Monies, Stores, Goods, Chattels and other Real and Personal Estate of the said Company subject to the Debts and Liabilities affecting the same respectively, and the Benefit of all Contracts, Covenants, and Engagements, and all Rights to Fines, Penalties, and Forefeitures, and all other Emoluments which the said Company

shall be seized or possessed of, or entitled to at the Time of the Commencement of this Act, except the Capital Stock of the said Company and the Dividend thereon, shall become vested in Her Majesty, to be applied and disposed of, subject to the Provisions of this Act, for the Purposes of the Government of *India*.

Powers of Sale and Purchase, and to enter into Contracts, vested in Secretary of State in Council.

XL. The Secretary of State in Council, with the Concurrence of a Majority of Votes at a Meeting, shall have full Power to sell and dispose of all Real and Personal Estate whatsoever for the time being vested in Her Majesty under this Act, as may be thought fit, or to raise Money on any such Real Estate by way of Mortgage, and make the proper Assurances for that Purpose, and to purchase and acquire any Land or Hereditaments, or any Interests therein, Stores, Goods, Chattels, and other Property, and to enter into any Contracts whatsoever, as may be thought fit, for the purposes of this Act; and all Property so acquired shall vest in Her Majesty for the Service of the Government of *India;* and any Conveyance or Assurance of or concerning and Real Estate to be made by the Authority of the Secretary of State in Council may be made under the Hands and Seals of Three Members of the Council.

Revenues.

Expenditure of Revenues of India subject to Control of Secretary of State in Council.

XLI. The Expenditure of the Revenues of *India*, both in *India* and elsewhere, shall be subject to the Control of the Secretary of State in Council, and no Grant or Appropriation of any Part of such Revenues, or of any other Property coming into the Possession of the Secretary of State in Council by virtue of this Act, shall be made without the Concurrence of a Majority of Votes at a Meeting of the Council.

Dividend on the Stock of the Company, and existing and future debits, liabilities and expenses to be charged on Revenues of India.

XLII. The Dividend on the Capital Stock of the said Company secured by the Act of the Third and Fourth Years of King William the Fourth, Chapter Eighty-five, until the Redemption thereof, and all the Bond, Debenture, and other Debt of the said Company in *Great Britain*, and all the Territorial Debt and all other Debts of the said Company, and all sums of Money, Costs, Charges, and Expenses, which if this Act had not been passed would after the Time appointed for the Commencement thereof have been payable by the said Company out of the Revenues of India, in respect or by reason of any Treaties, Covenants, Contracts, Grants, or Liabilities then existing, and all Expenses, Debts, and Liabilities which after the Commencement of this Act shall be lawfully contracted and incurred on account of the Government of India, and all Payments under this Act, shall be charged and chargeable upon the Revenues of *India* alone, as the same would have been if this Act had not been passed and such Expenses, Debts, Liabilities and Payments as last aforesaid had been Expenses, Debts and Liabilities lawfully contracted and incurred by the said Company, and such Revenues shall not be applied to any other Purpose whatsoever; and all other Monies vested in or raising or accruing from Property or Rights vested in Her Majesty under this Act, or to be received or disposed of by the Council under this Act, shall be applied in aid of such Revenues: Provided always, that nothing herein contained shall lessen or

prejudicially affect any Security to which the said Company, or any Proprietor or Creditor thereof, now is or may be entitled upon the Fund called "The Security Fund of the *India* Company", and mentioned in the Act of the Third and Fourth Years of His late Majesty King William the Fourth, Chapter Eighty-five, Section Fourteen.

Revenue remitted to Great Britain, and monies arising in Great Britain, to be paid to Secretary of State in Council.

XLIII. Such Part of the Revenues of *India* as shall be from Time to Time remitted to *Great Britain*, and all Monies of the said Company in their Treasury or under the Care of their Cashier, and all other Monies in *Great Britain* of the said Company, or which would have been received by them in *Great Britain* if this Act had not been passed, and all Monies arising or accruing in *Great Britain* from any property or rights vested in Her Majesty by this Act, or from the Sale or Disposition thereof, shall be paid to the Secretary of State in Council, to be applied for the Purposes of this Act; and all such Monies, except as herein-after otherwise provided, shall be paid into the Bank of *England*, to the Credit of an Account to be opened by the Governor and Company of the Bank of England, to be intituled "The Account of the Secretary of State in Council of India"; and all Monies to be placed to the Credit of such Account under this Act shall be paid out upon Drafts or Orders signed by Three Members of the Council, and countersigned by the Secretary of State or One of his Under Secretaries, and such Account shall be a public Account: Provided always, that the Secretary of State in Council may cause to be kept, from Time to Time, under the Care of their Cashier, in an Account to be kept at the Bank of *England*, such Sum or Sums of Money as they may deem necessary for the Payments now made out of Money under the Care of the Cashier of the said Company.

Cash Balance of the Company at the Bank to be transferred to the Secretary of State in Council.

XLIV. Such Amount of Money as at the Time of the Commencement of this Act may be standing to the Credit of the *East India* Company at the Bank of *England* shall be transferred by the Governor and Company of the Bank of *England* to the Credit of the Account to be opened in the Name of the Secretary of State in Council as aforesaid.

Stock account to be opened at the Bank.

XLV. There shall be raised in the Books of the Governor and Company of the Bank of *England* such Accounts as may be necessary in respect of any Stock or stocks of Government Annuities, and all such Accounts respectively shall be in intituled "The Stock Account of the Secretary of State in Council of India", and every such Account shall be a public Account.

Stock standing in the name of the Company transferred.

XLVI. Such Government Stock or Stocks as at the Time of the Commencement of this Act may be standing in the Name of the East India Company in the Books of the said Governor and Company shall be transferred by the Chief Cashier or the Chief Accountant of the said Governor and Company to the proper Account or Accounts to be raised as aforesaid.

Power to grant Letter of Attorney for Sale etc. of Stock and Receipt of Dividends.

XLVII. The Secretary of State in Council, by Letter of Attorney executed by Three Members of the Council, and countersigned by the Secretary of State or One of his Under Secretaries, may authorise all or any of the Cashiers of the Bank of England to sell

and transfer all or any part of the Stock or Stocks standing or that may thereafter stand in the Books of the said Bank to the several Accounts of the Secretary of State in Council, and to purchase and accept Stock on the said Accounts and to receive the Dividends due and to become due on the several Stocks standing or that may thereafter stand on the said Accounts, and by any Writing signed by Three Members of the Council, and countersigned as aforesaid, may direct the Application of the Monies to be received in respect of such Sales and Dividends, but no Stock shall be purchased or sold and transferred by any of the said Cashiers under the Authority of such General Letter of Attorney, except upon an order in Writing directed to the said Chief Cashier and Chief Accountant from Time to Time, and duly signed and countersigned as aforesaid.

Provision as to Exchequer Bills, Bonds and Other Securities.

XLVIII. All Exchequer Bills, Exchequer Bonds, or other Government Securities, or other Securities, of whatsoever Kind, not hereinbefore referred to, which shall be held by the Governor and Company of the Bank of *England* in trust for or on account of the *East India* Company at the Time of the Commencement of this Act, shall thenceforward be held by the said Governor and Company in trust for and on account of the Secretary of State in Council; and all such Securities as aforesaid, and all such Securities as may thereafter be lodged with the said Governor and Company by or on behalf of the Secretary of State in Council, shall and may be disposed of and the Proceeds thereof applied as may be authorised by Order in Writing signed by Three Members of the Council, and countersigned by the Secretary of State or One of his Under Secretaries, and directed to the said Chief Cashier and Chief Accountant.

Powers of borrowing vested in the Company transferred to Secretary of State in Council.

XLIX. All Powers of issuing Bonds, Debentures, and other Securities for Money in *Great Britain* which, if this Act had not been passed, might have been exercised by the Said Company, or the Court of Directors, under the Direction and Control of the Commissioners for the Affairs of India, or otherwise, shall and may be exercised by the Secretary of State in Council, with the Concurrence of a Majority of Votes at a Meeting; and such Securities as might have been issued under the Seal of the said Company shall be issued under the Hands of Three Members of the Council, and countersigned by the Secretary of State or One of his Under Secretaries.

Provisions in force relating to Forgery to extend to Bonds, etc. issued by Secretary of State in Council.

L. All Provisions now in force in anywise relating to the Offence of forging or altering, or offering, uttering, disposing of, or putting off, knowing the same to be forged or altered, any East India Bond, with Intent to defraud, shall extend and be applicable to and in respect of any Bond, Debenture, or Security issued by the Secretary of State in Council of India under the Authority of this Act.

Present System of issuing Warrants for Payments to be continued.

LI. The Regulations and Practice now acted on by the Court of Directors on the Issue of Warrants or Authorities for the Payment of Money shall be maintained and acted on by the Secretary of State in Council of India under this Act until the same be altered by the Authority of Her Majesty in Council: Provided, that where a

Warrant or Authority for the Payment of Money passes through the Audit Department at the *East India House before Payment,* it shall be countersigned by such Officer or Officers of that Audit Department as the Secretary of State in Council may direct before Payment shall be made; and that Warrants or Authorities which have heretofore been signed by Two Directors of the *East India* Company shall, after the Commencement of this Act, be signed by Three Members of the Council of India.

As to the Audit of Accounts in Great Britain.

LII. It shall be lawful for Her Majesty, by Warrant under Her Royal Sign Manual, countersigned by the Chancellor of the Exchequer, to appoint from Time to Time, a fit Person to be Auditor of the Accounts of the Secretary of State in Council, and to authorize the Auditor to appoint and remove from Time to Time such Assistants as may be specified in such Warrant; and every such Auditor shall hold Office during good Behaviour and there shall be paid to such Auditor and Assistants out of the Revenues of India such respective Salaries as Her Majesty, by Warrant, as aforesaid countersigned as aforesaid, may direct; and such Auditor shall examine and audit the Accounts of the Receipt, Expenditure, and Disposal in Great Britain of all Monies, Stores and Property applicable for the Purposes of this Act; and the Secretary of State in Council shall by the Officers and Servants of the Establishment produce and lay before such Auditor from Time to Time all such Accounts, accompanied by proper Vouchers for the Support of the same, and shall submit to his Inspection all Books, Papers and Writings, having relation thereto; and such Auditor shall have Power to examine all such Officers and Servants in Great Britain of the Establishment as he may see fit in relation to such Accounts, and the Receipt, Expenditure, or Disposal of such Monies, Stores, and Property, and for that Purpose, Writing under his Hand, to summon before him any such Officer or Servant; and such Auditor shall report from Time to Time to the Secretary of State in Council his Approval or Disapproval of such Accounts, with such Remarks and Observations in relation thereto as he may think fit, specially noting any Case, if such there shall be, in which it shall appear to him that any Money arising out of the Revenues of India has been appropriated to other Purposes than those of the Government of India to which alone they are declared to be applicable; and shall specify in detail in his Reports all Sums of Money, Stores and Property which ought to be accounted for, and are not brought into account or have not been appropriated, in conformity with the Provisions of this Act, or have been expended or disposed of without due Authority, and shall also specify any Defects, Inaccuracies or Irregularities which may appear in such Accounts, or in the Authorities, Vouchers, or Documents having relation thereto; and all such Reports shall be laid before both the Houses of Parliament by such Auditor, together with the Accounts of the Year to which the same may relate.

Accounts to be annually laid before Parliament.

LIII. The Secretary of State in Council shall, within the first Fourteen Days during which Parliament may be sitting next after the First Day of may in every Year, lay before both Houses of Parliament an Account for the financial Year preceding that last completed of the annual Produce of the Revenues of India, distinguishing the same under the respective Heads thereof, at each of the several Presidencies or Governments, and of all the annual Receipts and Disbursements at Home and Abroad on account of the Government of India, distinguishing the same under the respective Heads thereof, together with the latest Estimate of

the same for the last financial Year, and also the Amount of the Debts chargeable on the Revenues of India, with the Rates of Interest they respectively carry, and the annual Amount of such Interest, the State of the Effects and Credits at such Presidency or Government, and in *England* or elsewhere, applicable to the Purposes of the Government of India, according to the latest Advices which have been received thereof, and also a List of the Establishment of the Secretary of State in Council, and the Salaries and Allowances payable in respect thereof; and if any new or increased Salaries or Pensions of Fifty Pounds a Year or upwards have been granted or created within any year, the Particulars thereof shall be specially stated and explained at the Foot of the Account of such Year; and such Account shall be accompanied by a Statement prepared from detailed Reports from each Presidency and District in India in such Form as shall best exhibit the moral and material Progress and Conditions of *India* in each such Presidency.

When Order to commence Hostilities is sent to India, the Fact to be communicated to Parliament.

LIV. When any Order is sent to India directing the actual Commencement of Hostilities by Her Majesty's Forces in India, the Fact of such Order having been sent shall be communicated to both Houses of Parliament within Three Months after the sending of such Order, if Parliament be sitting, unless such Order shall have been in the meantime revoked or suspended. and if Parliament be not sitting at the end of such Three Months then within One Month after the next Meeting of Parliament.

Except for repelling Invasion, the Revenues of India not applicable for any Military Operation beyond the Frontiers.

LV. Except for preventing or repelling actual Invasion of Her Majesty's Indian Possessions, or under other sudden and urgent Necessity, the Revenues of India shall not, without the Consent of both Houses of Parliament, be applicable to defray the Expenses of any Military Operation carried on beyond the external Frontiers of such Possessions by Her Majesty's Forces charged upon such Revenues.

Existing Establishments.

Indian Military and Naval Forces to remain under existing Conditions of Service.

LVI. The Military and Naval Forces of the *East India* Company shall be deemed to be the Indian Military and Naval Forces of Her Majesty, and shall be under the same Obligations to serve Her Majesty as they would have been under to serve the said Company, and shall be liable to serve within the same territorial Limits only, for the same Terms only, and be entitled to the like Pay, Pensions, Allowances, and Privileges, and the like Advantages as regards Promotion and otherwise, as if they had continued in the Service of the said Company; Such Forces and all Persons hereafter enlisting in or entering the same shall continue and be subject to all Acts of Parliament, Laws of the Governor General of India in Council, and Articles of War, and all other Laws, Regulations, and Provisions relating to the East India Company's Military and Naval Forces respectively, as if Her Majjesty's Indian Military and Naval Forces respectively had throughout such Acts, Laws, Articles, Regulations and Provisions been mentioned or referred to, instead of such Forces of the said Company; and the Pay and Expenses of and incident to Her Majesty's Indian Military and Naval Forces shall be defrayed out of the Revenues of India.

Provisions for Persons hereafter entering Her Majesty's Indian Forces.

LVII. Provided, That it shall be lawful for Her Majesty from Time to Time by Order in Council to alter or regulate the Terms and Conditions of Service under which Persons hereafter entering Her Majesty's *Indian* Forces shall be commissioned, enlisted, or entered to serve, and the Forms of Attestation and of the Oath or Declaration to be used and taken or made respectively on attesting Persons to serve in Her Majesty's *Indian* Forces shall be such as Her Majesty with regard to the *European* Forces, and the Governor General of *India* in Council with regard to the Native Forces, shall from Time to Time direct: Provided, that every such Order in Council shall be laid before both Houses of Parliament within Fourteen Days after the making thereof, if Parliament be sitting and if Parliament be not sitting, then within Fourteen Days after the next Meeting thereof.

Officers, etc. in Employ of the Company at the Commencement of this Act to be deemed to hold Offices under Her Majesty.

LVIII. All Persons who at the Time of the Commencement of this Act shall hold any Offices, Employments, or Commissions whatever under the said Company in India shall thenceforth be deemed to hold such Offices, Employments and Commissions under Her Majesty as if they had been appointed under this Act, and shall be paid out of the Revenues of *India;* and the Transfer of any Persons to the Service of Her Majesty shall be deemed to be a Continuance of his previous Service and shall not prejudice any Claims to Pension, or any Claims on the various Annity Funds of the several Presidencies in India, which he might have had if this Act had not been passed.

All Orders of the Court of Directors of Board of Control given before the commencement of this Act to remain in force.

LIX. All Orders, Regulations, and Directions lawfully given or made before the Commencement of this Act by the Court of Directors or by the Commissioners for the Affairs of India shall remain in force; but the same shall, from and after the Commencement of this Act, be deemed to be the Orders, Regulations and Directions under this Act, and take effect and be construed and be subject to Alteration or Revocation accordingly.

Cesser of Appointments and Functions of Directors etc.

LX. All Functions and Powers of Courts of Proprietors and Courts of Directors of the said Company in relation to the Government of *India,* and all Appointments of such of the Directors of the said Company as have been appointed by Her Majesty, shall cease, and the yearly Sums payable to the Chairman, Deputy Chairman, and other Directors of the said Company shall cease to be payable, and all Powers vested in Her Majesty of appointing Directors of the said Company shall cease and determine.

Board of Control abolished.

LXI. The Appointments and Powers of Appointment of Commissioners for the Affairs of *India* shall cease and determine.

Records etc. of the Company to be delivered into the Care of Secretary of State in Council.

LXII. All Books, Records, and Archives of the said Company, except such Books and Documents as concern the Ownership of Shares in the Capital Stock of the said Company, and the Payments to the Proprietors of such Capital Stock of their respective Shares of the Dividend thereon, shall be delivered

into the Care and Custody of the Secretary of State in Council as they may direct.

A Person succeeding to the Office of Governor General may exercise his Powers before he takes his Seat in Council.

LXIII. In case the Person who shall be entitled under any provisional Appointment to succeed to the Office of Governor General of *India* upon a Vacancy therein, or who shall be appointed absolutely to assume that Office, shall be in *India* (upon or after the happening of the vacancy, or upon or after the Receipt of such absolute Appointment, as the case may require), but shall be absent from *Fort William* in Bengal, or from the Place where the Council of the Governor General of India may then be, and it shall appear to him necessary to exercise the Powers of Governor General before he shall have taken his Seat in Council, it shall be lawful for him to make known by Proclamation his Appointment, and his Intention to assume the said Office of Governor General, and after such Proclamation and thenceforth until he shall repair to *Fort William* or the Place where the Council may assemble, it shall be lawful for him to exercise alone all or any of the Powers which might be exercised by the Governor General in Council, except the Power of making Laws and Regulations; and all Acts done in the Exercise of the said Powers except as aforesaid, shall be of the same force and Effect as if they had been done by the Governor-General in Council; provided that all Acts done in the said Council after the Date of such Proclamation, but before the Communication thereof to such Council, shall be valid, subject nevertheless to Revocation or Alteration by the Person who shall have so assumtd the said Office of Governor General; and when the Office of Governor General is assumed under the foregoing Provision, if there be at any Time before the Governor General takes his Seat in Council no Vice-President of the Council authorized to preside at Meetings for making Laws and Regulations (as provided by Section Twenty-two of the Act of the Sixteenth and Seventeenth Years of Her Majesty), the senior ordinary Member of Council then present shall preside therein, with the same Powers as if a Vice-President had been appointed and were absent.

Continuance of Existing Enactments.

Existing Provisions to be applicable to Secretary of State in Council, etc.

LXIV. All Acts and Provisions now in force under Chapter or otherwise concerning *India* shall, subject to the Provisions of this Act, continue in force, and be construed as referring to the Secretary of State in Council in the Place of the said Company and the Court of Directors and Court of Proprietors thereof, and all Enactments applicable to the Officers and Servants of the said Company in India and to the Appointments to Office or Admissions to Service by the said Court of Directors, shall, subject to the Provisions of this Act, remain applicable to the Officers and Servants continued and to the Officers and Servants appointed or employed in *India*, and to Appointments to Office and Admissions to Service under the Authority of this Act.

Actions and Contracts.

Secretary of State in Council may sue and be sued.

LXV. The Secretary of State in Council shall and may sue and be sued as well in *India* as in *England* by the Name of the Secretary of State in Council as a Body corporate; and all Persons and Bodies Politic shall and may have and take the same suits, Remedies,

and Proceedings, legal and equitable, against the Secretary of State in Council of India as they could have done against the said Company; and the Property and effects hereby vested in Her Majesty for the purposes, of the Government of India acquired for the said purposes shall be subject and liable to the same Judgments and Executions as they would while vested in the said Company have been liable to in respect of Debts and Liabilities lawfully contracted and incurred by the said Company.

Secretary of State in Council to come in place of the Company with regard to pending suits, etc.

LXVI. The Secretary of State in Council shall, with respect to all Actions, Suits, and all Proceedings by or against the said Company pending at the Time of the Commencement of this Act, come in the Place of the said Company, and that without the Necessity of substituting the Name of the Secretary of lawfully contracted and incurred by the said Company.

Treaties to be binding on Her Majesty and Contracts etc. of Company may be enforced etc.

LXVII. All Treaties made by the said Company shall be binding on Her Majesty, and all Contracts, Covenants, Liabilities, and Engagements of the said Company made, incurred, or entered into before the Commencement of this Act may be enforced by and against the Secretary of State in Council in like Manner and in the same Courts as they might have been by and against the said Company if this Act had not been passed.

Members of Council not personally liable.

LXVIII. Neither the Secretary of State nor any Member of the Council shall be personally liable to respect of any such Contract, Covenant, or Engagement of the said Company as aforesaid, or in respect of any Contract entered into under the Authority of this Act, or other Liability of the said Secretary of State or Secretary of State in Council in their official Capacity but all such Liabilities, and all Costs and Damages in respect thereof, shall be satisfied and paid out of the Revenues of India.

The Directors elected by General Court of Company, alone to be Directors of the Company.

LXIX. After the Commencement of this Act such of the Directors as have been elected by the General Court of the said Company, or who shall from Time to Time be so elected, shall be the Directors of the said Company, and the major Part of such Directors for the Time being shall form a Court of Directors; and where the Presence, Signature, Consent, or Concurrence of Ten Directors is now requisite, the Presence, Signature, Consent, or Concurrence of the major part of the Directors for the Time being shall be sufficient; and to the Intent that the Number of Directors may be reduced to Six. Two Directors only shall be elected by the General Court of the said Company at each biennial Election to fill the Vacancies occasioned by the Expiration of the Term of Office of Directors; and so much of the said Act of the Sixteenth and Seventeenth Years of Her Majesty as require any of the Directors to be Persons who have resided Ten Years in India shall be repealed, and in the Oath to be taken by a Director of the said Company, under Section Thirteen of the said Act, the Words "in the Administration of the Government of *India* in trust for the Crown" shall be omitted.

Provisions as to Reduction of Number of Directors.

Quarterly Courts need not be summoned.

LXX. It shall no longer be obligatory on the Directors to summon Four General Quarterly Courts in every Year as heretofore.

LXXI. Except Claims of Mortgagees of the Securities Fund hereinbefore mentioned, the said Company shall not, after the passing of this Act, be liable in respect of any Claim, Demand or Liability which has arisen or may hereafter arise out of any Treaty, Covenant, Contract, Grant, Engagement, or Fiduciary Obligation made, incurred, or entered into by the said Company before the passing of this Act, whether the said Company would, but for this Act, have been bound to satisfy such Claim, Demand, or Liability out of the Revenue of India, or in any other Manner whatsoever.

Company not to be liable in respect of any claims arising out of any Covenant etc. made before the passing of this Act.

Saving of Certain Rights of the Company.

LXXII. It shall be lawful for the Secretary of State in Council to pay to the said Company out of the Revenues of India such annual Sum as Her Majesty, by Warrant under Her Royal Sign Manual, countersigned by the Chancellor of the Exchequer, may direct for defraying the Expenses of and incident to the Payment to the Proprietors of the Capital Stock of the said Company of their respective Shares of the Dividend on such Stock, and of keeping the Books of the said Company for Transfers, and otherwise in relation to such Stock.

As to payment of expenses of the Company in respect of their Capital Stock and Dividend.

LXXIII. Nothing herein contained shall affect the Preference secured by the said Act of the Third and Fourth Years of King *William* the Fourth to the Dividend on the Capital Stock of the said Company or the Right of the said Company to demand the Redemption of the said Dividend secured by such Acts; and all the Provisions of the said Act concerning the Security Fund thereby created shall remain in force, save that when the Approbation of the Commissioners for the Affairs of India is required in relation to the Disposal of the said Security Fund, the Approbation of the Secretary of State in Council shall be required.

Saving of the Rights of the Company in respect of their Dividend and Security Fund.

Commencement of the Act.

LXXIV. Save as herein otherwise provided, this Act shall commence and take effect on the Expiration of Thirty Days after the Day of the passing thereof.

Commencement of Act.

LXXV. This Act shall be proclaimed in the several Presidencies and Governments of India as soon as conveniently may be after such Act has been received by the Governor General of *India*; and until such Proclamation be made all Acts, Matters, and Things done, ordered directed, or authorised in *India* in the Name of the *East India* Company, or otherwise in relation to the Government of *India*, shall be as valid and effectual as if this Act had not been passed.

Provision as to Proceedings in India before the Act is proclaimed there.

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II. GOVERNMENT OF INDIA ACT, 1915-19[1]

(5 & 6 Geo. 5, Ch. 61; 6 & 7 Geo. 5, Ch. 37; and 9 & 10 Geo. 5, Ch. 101.)

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17. Establishment of Secretary of State.
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19A. Relaxation of control of Secretary of State.

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GOVERNMENT OF INDIA ACT, 1915-19

An Act to consolidate enactments relating to the government of India.

Preamble.[1]

WHEREAS it is the declared policy of Parliament to provide for the increasing association of Indians in every branch of Indian administration, and for the gradual development of self-governing institutions, with a view to the progressive realisation of responsible government in British India as an integral part of the empire: 9 & 10 Geo. 5, Ch. 101.

And whereas progress in giving effect to this policy can only be achieved by successive stages, and it is expedient that substantial steps in this direction should now be taken:

And whereas the time and manner of each advance can be determined only by Parliament, upon whom responsibility lies for the welfare and advancement of the Indian peoples:

And whereas the action of Parliament in such matters must be guided by the co-operation received from those on whom new opportunities of service will be conferred, and by the extent to which it is found that confidence con be reposed in their sense of responsibility:

And whereas concurrently with the gradual development of self-governing institutions in the provinces of India it is expedient to give to those provinces in provincial matters the largest measure of independence of the Government of India, which is compatible with the due discharge by the latter of its own responsibilities:

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.—HOME GOVERNMENT.

The Crown.

Government of India by the Crown.

1. The territories for the time being vested in His Majesty in India are governed by and in the name of His Majesty the King Emperor of India, and all rights which, if the Government of India Act, 1858, had not been passed, might have been exercised by the East India Company in relation to any territories, may be exercised by and in the name of His Majesty as rights incidental to the government of India.

The Secretary of State.

The Secretary of State.

2. (*1*) Subject to the provisions of this Act, the Secretary of State has and performs all such or the like powers and duties relating to the government or revenues of India, and has all such or the like powers over all officers appointed or continued under this Act, as, if the Government of India Act, 1858, had not been passed, might or should have been exercised or performed by the

1. These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 181).

East India Company, or by the Court of Directors or Court of Proprietors of that Company, either alone or by the direction or with the sanction or approbation of the Commissioners for the Affairs of India, in relation to that government or those revenues and the officers and servants of that Company, and also all such powers as might have been exercised by the said Commissioners alone.

(*2*) In particular, the Secretary of State may, subject to the provisions of this Act [1][or rules made thereunder], superintend, direct and control all acts, operations and concerns which relate to the government or revenues of India, and all grants of salaries, gratuities and allowances, and all other payments and charges, out of or on the revenues of India.

[2][(*3*) The salary of the Secretary of State shall be paid out of moneys provided by Parliament, and the salaries of his under-secretaries and any other expenses of his department may be paid out of the revenues of India or out of moneys provided by Parliament.]

The Council of India.

3. (*1*) The Council of India shall consist of such number of members, not less than [3][eight] and not more than [3][twelve], as the Secretary of State may determine:

The Council of India.

[4][Provided that the Council as constituted at the time of the passing of the Government of India Act, 1919, shall not be affected by this provision, but no fresh appointment or re-appointment thereto shall be made in excess of the maximum prescribed by this provision.]

(*2*) The right of filling any vacancy in the Council shall be vested in the Secretary of State.

(*3*) Unless at the time of an appointment to fill a vacancy in the Council [5][one-half] of the then existing members of the Council are persons who have served or resided in [*][6]India for at least ten years, and have not last left [*] [7]India more than five years before the date of their appointment, the person appointed to fill the vacancy must be so qualified.

(*4*) Every member of the Council shall hold office, except as by this section provided, for a term of [8][*five*] years:

[9][Provided that the tenure of office of any person who is a member of the Council at the time of the passing of the Government of India Act, 1919, shall be the same as though that Act had not been passed.]

(*5*) The Secretary of State may, for special reasons of public advantage, re-appoint for a *further term* of five years any member of the Council whose term of office has expired. In any such case the reasons for the re-appointment shall be set forth in a minute signed by the Secretary of State and laid before both Houses of Parliament. Save as aforesaid, a member of the Council shall not be capable of re-appointment.

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2. This sub-section was substituted by Part II of Sch. of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).
3. The words "eight" and "twelve" were substituted for the words "ten" and "fourteen" respectively by *ibid.*
4. This proviso was added by *ibid.*
5. The word "one-half" was substituted for the word "nine" by *ibid.*
6. The word "British" was omitted by *ibid.*
7. The word "British" was omitted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).
8. The word "five" was substituted for "seven" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).
9. This proviso was inserted by *ibid.*

(6) Any member of the Council may, by writing signed by him, resign his office. The instrument of resignation shall be recorded in the minutes of the Council.

(7) Any member of the Council may be removed by His Majesty from his office on an address of both Houses of Parliament.

[10][(8) There shall be paid to each member of the Council of India the annual salary of twelve hundred pounds:

Provided that any member of the Council who was at the time of his appointment domiciled in India shall receive, in addition to the salary hereby provided, an annual subsistence allowance of six hundred pounds.

Such salaries and allowances may be paid out of the revenues of India or out of moneys provided by Parliament.

(9) Notwithstanding anything in any Act or rule, where any person in the service of the Crown in India is appointed a member of the Council before the completion of the period of such service required to entitle him to a pension or annuity, his service as such member shall, for the purpose of any pension or annuity which would have been payable to him on completion of such period, be reckoned as service under the Crown in India whilst reckoned as service under the Crown in India whilst resident in India.]

Seat in Council disqualification for Parliament Duties of Council.

4. No member of the Council of India shall be capable of sitting or voting in Parliament.

5. The Council of India shall, under the direction of the Secretary of State, and subject to the provisions of this Act, conduct the business transacted in the United Kingdom in relation to the government of India and the correspondence with India.

* * * [11]

Powers of Council.

6. (1) All powers required to be exercised by the Secretary of State in Council, and all powers of the Council at which [such number of members are present as may be prescribed by general directions of the Secretary of State].

(2) The Council may act notwithstanding any vacancy in their number.

President and vice-president of Council.

7. (1) The Secretary of State shall be the president of the Council of India, with power to vote.

(2) The Secretary of State in Council may appoint any member of the Council to be vice-president thereof, and the Secretary of State may at any time remove any person so appointed.

(3) At every meeting of the Council the Secretary of State, or, in his absence, the vice-president, if present, or in the absence of both of them, one of the members of the Council, chosen by the members present at the meeting, shall preside.

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10. Sub-sections (8) & (9) of section 3 were substituted for old sub-section (8) by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).
11. The remaining words were omitted by *ibid.*
12. These words were substituted for "not less than five members are present" by *ibid.*

Meetings of Council.

8. Meetings of the Council of India shall be convened and held as and when the Secretary of State directs, but one such meeting at least shall be held in every [13][month].

Procedure at meetings.

9. (*1*) At any meeting of the Council of India at which the Secretary of State is present, if there is a difference of opinion on any question, except a question with respect to which a majority of votes at a meeting is by this Act declared to be necessary, the determination of the Secretary of State shall be final.

(*2*) In case of an equality of votes at any meeting of the Council, the person presiding at the meeting shall have a second or casting vote.

(*3*) All acts done at a meeting of the Council in the absence of Secretary of State shall require the approval in writing of the Secretary of State.

(*4*) In case of difference of opinion on any question decided at a meeting of the Council, the Secretary of State may require that his opinion and the reasons for it be entered in the minutes of the proceedings, and any member of the Council, who has been present at the meeting, may require that his opinion, and any reasons for it that he has stated at the meeting be also entered in like manner.

Committees of Council and business.

10. The Secretary of State may constitute committees of the Council of India for the more convenient transaction of business, and direct what departments of business are to be under those committees resptctively, and generally direct the manner in which [14][the business of the Secretary of State in Council or the Council of India shall be transacted, and any order made or act done in accordance with such direction shall, subject to the provisions of this Act, be treated as being an order of the Secretary of State in Council.]

Orders and Communications.

Correspondence between Secretary of State and India.

[15][**11.** Subject to the provisions of this Act, the procedure for the sending of orders and communications to India and in general for correspondence between the Secretary of State and the Governor-General in Council or any local government shall be such as may be prescribed by order of the Secretary of State in Council.]

12.
13.
14.

[16]*Omitted.*

Communication to Parliament as to orders for commencing hostilities.

15. When any order is sent to India directing the actual commencement of hostilities by His Majesty's forces in India, the fact of the order having been sent shall, unless the order has in the meantime been revoked or suspended, be communicated to both Houses of Par-

13. The word "month" was substituted for the word "week" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).
14. These words were substituted for all business of the Council or Committees thereof is to be transacted" by *ibid.*
15. Section 11 was substituted for old sections 11 to 14 by Part I of *ibid.*
16. Section 11 was substituted for old sections 11 to 14 by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

liament within three months after the sending of the order or, if Parliament is not sitting at the expiration of those three months, then within one month after the next meeting of Parliament.

16. [*Correspondence by Governor-General with Secretary of State.*] Omitted by Part III of Sch. II of 9 & 10 Geo. 5, Ch. 101.

Establishment of Secretary of State.

17. (*1*) No addition may be made to establishment of the Secretary of State in Council, nor to the salaries of the persons on that establishment, except by an Order of His Majesty in Council, to be laid before both Houses of Parliament within fourteen days after the making thereof, or, if Parliament is not then sitting, then within fourteen days after the next meeting of Parliament.

Establishment of Secretary of State.

(*2*) The rules made by His Majesty for examinations, certificates, probation or other tests of fitness, in relation to appointments to junior situations in the civil service, shall apply to such appointments on the said establishment.

(*3*) The Secretary of State in Council may, subject to the foregoing provisions of this section, make all appointments to and promotions in the said establishment, and may remove any officer or servant belonging to the establishment.

18. His Majesty may, by warrant under the Royal Sign Manual, countersigned by the Chancellor of the Exchequer, grant to any secretary, officer or servant appointed on the establishment of the Secretary of State in Council, such compensation, superannuation or retiring allowance, or to his legal personal representative such gratuity, as may respectively be granted to persons on the establishment of a Secretary of State, or to the personal representatives of such persons, under the laws for the time being in force concerning superannuations and other allowances to persons having held civil offices in the public service or to personal representatives of such persons.

Pensions and gratuities.

Military Appointments.

19.[17] * * * * In the appointment of officers to His Majesty's army the same provision as heretofore, or equal provision, shall be made for the appointment of sons of persons who have served in India in the military or civil service of the Crown or of the East India Company.

Millitary appointments.

Relaxation of Control of Secretary of State.

[18][**19A.** The Secretary of State in Council may, notwithstanding anything in this Act, by rule regulate and restrict the exercise of the powers of superintendence, direction and control, vested in the Secretary of State and the Secretary of State in Council by this Act, or otherwise, in such manner as may appear necessary or expedient in order to give effect to the purpose of the Government of India Act, 1919.

Relaxation of control of Secretary of State.

17. Certain words were omitted by Part II of Sch. of the Government of India Act 191 (9 & 10 Geo. 5, Ch. 101).

18 Section 19A was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

Before any rules are made under this section relating to subjects other than transferred subjects, the rules proposed to be made shall be laid in draft before both Houses of Parliament, and such rules shall not be made unless both Houses by resolution approve the draft either without modification or addition, or with modifications or additions to which both Houses agree, but upon such approval being given the Secretary of State in Council may make such rules in the form in which they have been approved, and such rules on being so made shall be of full force and effect.

Any rules relating to transferred subjects made under this section shall be laid before both Houses of Parliament as soon as may be after they are made, and if an address is presented to His Majesty by either House of Parliament within the next thirty days on which that House has sat after the rules are laid before it praying that the rules or any of them may be annulled, His majesty in Council may annul the rules or any of them, and those rules shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder.]

PART II.—THE REVENUES OF INDIA.

Application of revenues.

20. (*1*) The revenues of India shall be received for and in the name of His Majesty, and shall, subject to the provisions of this act, be applied for the purposes of the government of India alone.

(*2*) There shall be charged on the revenues of India alone—

(*a*) all the debts of the East India Company; and

(*b*) all sums of money, costs, charges and expenses which, if the Government of India Act, 1858, had not been passed, would have been payable by the East India Company out of the revenues of India in respect of any treaties, covenants, contracts, grants or liabilities existing at the commencemtnt of that Act; and

(*c*) all expenses, debts and liabilities lawfully contracted and incurred on account of the government of India; and

(*d*) all payments under this Act [19][except so far as is otherwise provided this Act].

(*3*) The expression "the revenues of India" in this Act shall include all the territorial and other revenues of or arising in British India, and, in particular,—

(*i*) all tributes and other payments in respect of any territories which would have been receivable by or in the name of the East India Company if the Government of India Act, 1858, had not been passed; and

(*ii*) all fines and penalties incurred by the sentence or order of any court of justice in British India, and all forfeitures for crimes of any movable or immovable property in British India; and

(*iii*) all movable or immovable property in British India escheating or lapsing for want of an heir or successor, and all property in British India devolving as *bona vacantia* for want of a rightful owner.

(*4*) All property vested in, or arising or accruing from property or rights vested in, His Majesty under the Government of India Act, 1858, or this Act, or to be received or disposed of by the Secretary of State in Council under this Act, shall be applied in aid of the revenues of India.

Control of Secretary of State over expenditure of revenues.

21. [19][Subject to the provisions of this Act, and rules made thereunder], the expenditure of the revenues of India, both in British India and elsewhere, shall be subject to the control of the Secretary of State in Council and no grant or appropriation of any part of those revenues, or of any other property coming into the possession of the Secretary of State in Council by virtue of the Government of India Act, 1858, or this Act, shall be made without the concurrence of a majority of votes at a meeting of the Council of India:

[20][Provided that a grant or appropriation made in accordance with provisions or restrictions prescribed by the Secretary of State in Council with the concurrence of a majority of votes at a meeting of the Council shall be deemed to be made with the concurrence of a majority of such votes.]

Application of revenues to military operations beyond the frontier.

22. Except for preventing or repelling actual invasion of his Majesty's Indian possessions, or under other sudden and urgent necessity, the revenues of India shall not, without the consent of both Houses of Parliament, be applicable to defraying the expenses of any military operations carried on beyond the external frontiers of those possessions by His Majesty's forces charged upon those revenues.

Accounts of Secretary of State with Bank.

23. (*1*) Such parts of the revenues of India as, are remitted to the United Kingdom and all money arising or accruing in the United Kingdom from any property or rights vested in His Majesty for the purposes of the government of India, or from the sale or disposal thereof shall be paid to the Secretary of State in Council, to be applied for the purposes of this Act.

(*2*) All such revenues and money shall, except as by this section is provided, be paid into the Bank of England to the credit of an account entitled "The Account of the Secretary of State in Council of India."

(*3*) The money placed to the credit of that account shall be paid out on drafts or orders, either signed by two members of the Council of India and countersigned by the Secretary of State or one of his under secretaries or his assistant under secretary, or signed by the accountant-general on the establishment of the Secretary of State in Council or by one of the two senior clerks in the department of that accountant-general and countersigned in such manner as the Secretary of State in Council direct; and any draft or order so signed and countersigned shall effectually discharge the Bank of England for all money paid thereon.

(*4*) The Secretary of State in Council may, for the payment of current demands, keep at the Bank of England such accounts as he deems expedient; and every such account shall be kept in such name and be drawn upon by such person, and in such manner, as the Secretary of State in Councils directs.

(*5*) There shall be raised in the books of the Bank of England such accounts as may be necessary in respect of stock vested in the Secretary

19. These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5. Ch. 101).

20. These words were added by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

of State in Council; and every such accountant shall be entitled "The Stock Account of the Secretary of State in Council of India."

(*o*) Every account referred to in this section shall be a public account.

Power of attorney for sale or purchase of stock and receipt of dividends.

24. The Secretary of State in Council, by power of attorney executed by two members of the Council of India and countersigned by the Secretary of State or one of his under secretaries or his assistant under secretary, may authorise all or any of the cashiers of the Bank of England—

(*a*) to sell and transfer all or any part of any stock standing in the books of the Bank to the account of the Secretary of State in Council; and

(*b*) to purchase and accept stock for any such account; and

(*c*) to receive dividends on any stock standing to any such account; and, by any writing signed by two members of the Council of India and countersigned as aforesaid, may direct the application of the money to be received in respect of any such sale or dividend:

Provided that stock shall not be purchased or sold and traneferred under the authority of any such general power of attorney, except on an order in writing directed to the chief cashier and chief accountant of the Bank of England and signed and countersigned as aforesaid.

Provision as to securities.

25. All securities held by or lodged with the Bank of England, in trust for or on account or on behalf of the Secretary of State in Council may be disposed of, and the proceeds thereof may be applied, as may be dispoosed of, and the proceeds thereof may be applied, as may be authorised by order in writing signed by two members of the Council of India and countersigned by the Secretary of State or one of his under secretaries or his assistant under secretary, and directed to the chief cashier and chief accountant of the Bank of England.

Accounts to be annually laid before Parliament.

26. (*1*) The Secretary of State in Council shall, within the first[21] [twenty-eight days] during which Parliament is sitting next after the first day of May in every year, lay before both Houses of Parliament—

(*a*) an account, for the financial year preceding that last completed, of the annual produce of the revenues of India, distinguishing the same under the respective heads thereof, in each of the several provinces; and of all the annual receipts and disbursements at home and abroad for the purposes of the government of India, distinguishing the same under the respective heads thereof;

(*b*) the latest estimate of the same for the financial year last completed;

(*c*) accounts of all stocks, loans, debts and liabilities chargeable on the revenues of India at home and abroad, at the commencement and close of the financial year preceding that last completed, the loans, debts and liabilities raised or incurred within that year, the amounts paid of or discharged during

21. These words were substituted for the "fourteen days" by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

the year, the rates of interest borne by those loans, debts and liabilities respectively, and the annual amount of that interest;

[22](*d*) * * ;

(*e*) a list of the establishment of the Secretary of State in Council, and the salaries and allowances payable in respect thereof.

(*2*) If any new or increased salary or pension of fifty pounds a year or upwards has been granted or created within any year in respect of the said establishment, the particulars thereof shall be specially stated and explained at the foot of the account for that year.

(*3*) The account shall be accompanied by a statement, prepared from detailed reports from each provinces, in such form as best exhibits the moral and material progress and condition of India.

Audit of Indian accounts in United Kingdom.

27. (*1*) His Majesty may, by warrant under His Royal Sign Manual countersigned by the Chancellor of the Exchequer, appoint a fit person, to be auditor of the accounts of the Secretary of State in Council, and authorise that auditor to appoint and remove such assistance as may be specified in the warrant.

(*2*) The auditor shall examine and audit the accounts of the receipt, expenditure and disposal in the United Kingdom of all money, stores and property applicable for the purposes of this Act.

(*3*) The Secretary of State in Council shall, by the officers and servants of his establishments, produce and lay before the auditor all such accounts, accompanied by proper vouchers for their support, and submit to his inspection all books, papers and writings having relation thereto.

(*4*) The auditor may examine all such officers and servants of that establishment, being in the United Kingdom, as he thinks fit, in relation to such accounts and the receipt, expenditure or disposal of such money, stores and property, and may for that purpose by writing signed by him, summon before him any such officer or servant.

(*5*) The auditor shall report to the Secretary of State in Council his approval or disapproval of the accounts aforesaid, with such remarks and observations in relation thereto, as he thinks fit, specially nothing cases (if any) in which it appears to him that any money arising out of the revenues of India has been appropriated to purposes other than those to which they are appliable.

(*6*) The auditor shall specially in detail in his reports all sums of money, stores and property which ought to be accounted for, and are not brought into account, or have not been appropriated in conformity with the provisions of the law, or which have been expended or disposed of without due authority, and shall also specify any defects, inaccuracies or irregularities which may appear in the accounts, or in the authorities, vouchers or documents having relation thereto.

(*7*) The auditor shall lay all his reports before both Houses of Parliament, with the accounts of the year to which the reports relate.

(*8*) The auditor shall hold office during good behaviour.

(*9*) There shall be paid to the auditor and his assistants, out of the revenues of India, [23][or out of moneys provided by Parliament], such

22. Paragraph (*d*) was repealed by Sch. II of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

salaries as His Majesty, by warrant signed and countersigned as aforesaid, may direct.

(*10*) The auditor and his assistants (notwithstanding that some of them do not hold certificates from the Civil Service Commissioners) shall, for the purposes of superannuation [24][or retiring] allowance [24][and their legal personal representatives shall for the purposes of gratuity] be in the same position as if [25][the auditor and his assistants] were on the establishment of the Secretary of State in Council.

PART III.—PROPERTY, CONTRACTS AND LIABILITIES.

Power of Secretary of State to sell, mortgage and buy property.

28. (*1*) The Secretary of State in Council may, with the concurrence of a majority of votes at a meeting of the Council of India, sell and dispose of any real or personal estate for the time being vested in His Majesty for the purpose for the government of India, and raise money on such real [1][or personal] estate by way of mortgage, [1][or otherwise] and make the proper assurances for any of those purposes, and purchase and acquire any property.

(*2*) Any assurance relating to real estate, made by the authority of the Secretary of State in Council, may be made under the hands and seals of [2][two] members of the Council of India.

(*3*) All property acquired in pursuance of this section shall vest in His Majesty for the purposes of the government of India.

Contracts of Secretary of State.

29. (*1*) [3][Subject to the provisions of this Act regarding the appointment of a High Commissioner for India,] the Secretary of State in Council may, with the concurrence of a majority of votes at a meeting of Council of India, make any contract for the purposes of this Act.

(*2*) Any contract so made may be expressed to be made by the Secretary of State in Council.

(*3*) Any contract so made which, if it were made between private persons, would be by law required to be under seal, may be made, varied or discharged under the hands and seals of two members of the Council of India.

(*4*) Any contract so made which, if it were made between private persons, would be by law required to be signed by the party to be charged therewith may be made, varied or discharged under the hands of two members of the Council of India.

(*5*) Provided that any contract for or relating to the manufacture, sale, purchase or supply of goods, or for or relating to affreightment or the carriage of goods, or to insurance, may, subject to such rules and restrictions as the Secretary of State in Council prescribes, be made and signed on behalf of the Secretary of State in Council by any person upon the permanent

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23. These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).
24. These words were inserted by Sch. I of the Government of India (Amendment) Act, 1913 (6 & 7 Geo. 5, Ch. 37).
25. These words were substituted for the word "they" by *ibid.*
1. These words were inserted by *ibid.*
2. This word was substituted for the word "three" by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).
3. These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

establishment of the Secretary of State in Council who is duly empowered by the Secretary of State in Council in this behalf. Contracts so made and signed shall be as valid and effectual as if made as prescribed by the foregoing provisions of this section. Particulars of all contracts so made and signed shall be laid before the Secretary of State in Council in such manner and form and within such times as the Secretary of State in Council prescribes.

(*6*) The benefit and liability of every contract made in pursuance of this section shall pass to the Secretary of State in Council for the time being.

[4][**29A.** His Majesty may by Order in Council make provision for the appointment of a High Commissioner for India in the United Kingdom, and for the pay, pension, powers, duties, and conditions of employment of the High Commissioner and of his assistants; and the Order may further provide for delegating to the High Commissioner any of the powers previously exercised by the Secretary of State or the Secretary of State in Council, whether under this Act or otherwise, in relation to making contracts, and may prescribe the conditions under which he shall act in behalf of the Governor-General in Council or any local government.]

High Commissioner for India.

30. (*1*) The Governor-General in Council and any local government may, on behalf and in the name of the Secretary of State in Council, and subject to such provisions or restrictions as the Secretary of State in Council, with the concurrence of a majority of votes at a meeting of the Council of India, prescribes, sell and dispose of any real or personal estate whatsoever in British India, within the limits of their respective governments, for the time being vested in His Majesty for the purposes of the government of India, or raise money on any such real [5][or personal] estate by way of mortgage, [6][or otherwise], and make proper assurances for any of those purposes, and purchase or acquire any property in British India within the said respective limits, and make any contract for the purposes of this Act.

Power to execute assurances, etc., in India.

[7][*1a*) A local government may on behalf and in the name of the Secretary of State in Council raise money on the security of revenues allocated to it under this Act, and make proper assurances for that purpose, and rules made under this Act may provide for the conditions under which this power shall be exercisable.]

(*2*) Every assurance and contract made for the purposes of [8][sub-section (*1*) of this section] shall be executed by such person and in such manner as the Governor-General in Council by resolution directs or authorises, and if so executed may be enforced by or against the Secretary of State in Council for the time being.

(*3*) All property acquired in pursuance of this section shall vest in His Majesty for the purposes of the government of India.

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4. Section 29A was inserted by Part I of *ibid.*
5. These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).
6. These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916 (9 & 7 Geo. 5, Ch. 37).
7. Sub-section (*1a*) was inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).
8. These words and figures were substituted for the words "this section" by *ibid.*

Power to dispose of escheated property, etc.

31. The Governor-General in Council, and any other person authorised by any Act passed in that behalf by the [9][Indian legislature] may make any grant or disposition of any property in British India accruing to His Majesty by forfeiture escheat or lapse, or by devolution as *bonâ vacantia*, to or in favour of any relative or connection of the person from whom the property has accrued, or to or in favour of any other person.

Rights and liabilities of Secretary of State in Council.

32. (*1*) The Secretary of State in Council may sue and be sued by the name of the Secretary of State in Council as a body corporate.

(*2*) Every person shall have the same remedies against the Secretary of State in Council as he might have had against the East India Company if the Government of India Act, 1858, and this Act had not been passed.

(*3*) The property for the time being vested in His Majesty for the purposes of the government of India shall be liable to the same judgments and executions as it would have been liable to in respect of liabilities lawfully incurred by the East India Company if the Government of India Act, 1958, and this Act had not been passed.

(*4*) Neither the Secretary of State nor any member of the Council of India shall be personally liable in respect of any assurance or contract made by or on behalf of the Secretary of State in Council, or any other liability incurred by the Secretary of State or the Secretary of State in Council in his or their official capacity, nor in respect of any contract, covenant or engagement of the East India Company; nor shall any person executing any assurance or contract on behalf of the Secretary of State in Council be personally liable in respect thereof: but all such liabilities, and all costs and damages in respect thereof, shall be borne by revenues of India.

PART IV.—THE GOVERNOR-GENERAL IN COUNCIL.

General Powers and Duties of Governor-General in Council.

Powers of control of Governor-General in Council.

33. [10][Subject to the provisions of this Act and rules made thereunder], the superintendence, direction and control of the civil and military government of India is vested in the Governor-General in Council, who is required to pay due obedience to all such orders he may receive from the Secretary of State.

The Governor-General.

The Governor-General.

34. The Governor-General of India is appointed by His Majesty by warrant under the Royal Sign Manual.

The Governor-General's Executive Council.

Members of Council.

35. [*Constitution of Governor-General's executive council.*] Omitted by Part II of Sch. II, 9 and 10 Geo. 5, Ch. 101.

36. (*1*) The [11][*] members of the Governor-General's executive

9. These words were substitituted for the words "Governor-General in Legislative Council" by *ibid.*
10. These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).
11. The word "ordinary" was omitted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

council shall be appointed by His Majesty by warrant under the Royal Sign Manual.

(2) The number of the [11][*] members of the council shall be [12][such as His Majesty thinks fit to appoint].

(3) There at least of them must be persons who [13][* * * *]have for at least ten years in the service of the Crown in India, and one must be a barrister of England or Ireland, or a member of the Faculty of Advocates of Scotland, [14][or a pleader of a High Court] of not less than [15][ten] years' standing.

(4) If any [16][member of the council (other than the Commander-in-Chief for the time being of His Majesty's forces in India)] is at the time of his appointment in the military service of the Crown, he shall not, during his continuance in office as such member, hold any military command or be employed in actual military duties.

[17][(5) Provision may be made by rules under this Act as to the qualifications to be required in respect of the members of the Governor-General's executive council in any case where such provision is not made by the foregoing provisions of this section.]

Rank and precedence of Commander-in-Chief.

[18][**37.** If the Commander-in-Chief for the time being of His Majesty's forces in India is a member of the Governor-General's executive Council he shall, subject to the provisions of this Act, have rank and precedence in the council next after the Governor-General.]

Vice-president of Council meetings.

38. The Governor-General shall appoint a member of his executive council to be vice-president thereof.

39. (1) The Governor-General's executive council shall assemble at such places in India as the Governor-General in Council appoints.

(2) At any meeting of the council the Governor-General or other person presiding and [19][one member of the council (other than the Commander-in-Chief)] may exercise all the functions of the Governor-General in Council.

Business of Governor-General in Council.

40. (1) All orders and other proceedings of the Governor-General in Council shall be expressed to be made by the Governor-General in Council, and shall be signed by a secretary to the Government of India, or otherwise, as the Governor-General in Council may direct [20][and when so signed shall not be called into question in any legal proceeding on the ground that they were not duly made by the Governor-General in Council.]

(2) The Governor-General may make rules and orders for the more convenient transaction of business in his executive council, and every order made, or act done, in being the order or the act of the Governor-General in Council.

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12. These words were substituted for the words "five, or if His Majesty thinks fit to appoint a sixth member, six" by *ibid.*
13. The words "at the time of their appointment" were omitted by *ibid.*
14. These words were inserted by *ibid.*
15. This word was substituted for the word "five" by *ibid.*
16. These words were substituted for the words "person appointed as ordinary members of the council" by *ibid.*
17. Sub-section (5) was inserted by *ibid.*
18. Section 37 was substituted by *ibid.*
19. These words were substituted for the words "one ordinary member of the council" by *ibid.*
20. These words were inserted by *ibid.*

Procedure in case of difference of opinon.

41. (1) If any difference of opinion arises on any question brought before a meeting of the Governor-General's executive council, the Governor-General in Council shall be bound by the opinion and decision of the majority of those present, and, if they are equally divided, the Governor-General or other person presiding shall have a second or casting vote.

(2) Provided that Whenever any measure is proposed before the Governor-General in Council whereby the safety, tranquillity or interests of British India, or of any part thereof, are or may be, in the judgment of the Governor-General, essentially affected, and he is of opinion either that the measure proposed ought to be adopted and carried into execution, or that it ought to be suspended or rejected and the majority present at a meeting of the council dissent from that opinion, the Governor-General may, on his own authority and responsibility, adopt, suspend or reject the measure, in whole or in part.

(3) In every such case any two members of the dissentient majority may require that the adoption, suspension or rejection of the measure, and the fact of their dissent, be reported to the Secretary of State, and the report shall be accompanied by copies of any minutes which the members of the council have recorded on the subject.

(4) Nothing in this section shall empower the Governor-General to do anything which he could not lawfully have done with the concurrence of his council.

Provision for absence of Governor-General from meetings of Council.

42. If the Governor-General is obliged to absent himself from any meeting of the council, by indisposition or any other cause, [22][* * * * *] the vice-president, or, if he is absent, the senior [23][member (other than the Commander-in-Chief)] present at the meeting, shall preside thereat, with the like powers as the Governor-General would have had if present.

Provided that if the Governor-General is at the time resident at the place where the meeting is assembled, and is not prevented by indisposition from signing any Act of council made at the meeting, the Act shall require his signature; but, if he declines or refuses to sign it, the like provisions shall have effect as in cases where the Governor-General, when present, dissents from the majority at a meeting of the council.

Powers of Governor-General in absence from Council.

43. (1) Whenever the Governor-General in Council declares that it is expedient that the Governor-General should visit any part of India unaccompanied by his executive council, the Governor-General in Council, may, by order, authorize the Governor-General alone to exercise in his discretion, all or any of the powers which might be exercised by the Governor-General in Council at meetings of the council.

(2) The Governor-General during absence from his executive council may, if he thinks it necessary, issue, on his own authority and responsibility, any order, which might have been issued by the Governor-General in Council, to any local government, or to any officers or servants of the Crown acting under the authority of any local government without previously communicating the order to the local government; and any such order shall have the same force as if made by the Governor-General in Council; but

21. The words "and signifies his intended absence to the council" were omitted by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

22. These words were substituted for the words "ordinary member" by Part II of Sch. II of *ibid.*

a copy of the order shall be sent forthwith to the Secretary of State and to the local government, with the reasons for making the order.

(3) The Secretary State in Council may, by order, suspend until further order all or any of the powers of the Governor-General under the last foregoing sub-section; and those powers shall accordingly be suspended as from the time of the receipt by the Governor-General of the order of the Secretary of State in Council.

Appointment of Council secretaries.

[23][**43A.** (1) The Governor-General may at his discretion appoint from among the members of the Legislative Assembly, council secretaries who shall hold office during his pleasure and discharge such duties in assisting the members of his executive council as he may assign to them.

(2) There shall be paid to council secretaries so appointed such salary as may be provided by the Indian legislature.

(3) A council secretary shall cease to hold office if he ceases for more than six months to be a member of the Legislative Assembly.]

War and Treaties.

Restriction on Power of Governor-General in Council to make war or treaty.

44. (1) The Governor-General in Council may not, without the express order of the Secretary of State in Council, in any case (except where hostilities have been actually commenced, or preparations for the commencement of hostilities have been actually made against the British Government in India or against any prince or state dependent thereon, or against any prince or state whose territories His Majesty is bound by any subsisting treaty to defend or guarantee), either declare war or commence hostilities or enter into any treaty for making war against any prince or state in India, or enter into any treaty for guaranteeing the possession of any such prince or state.

(2) In any such excepted case the Governor-General in Council may not declare war or commence hostilities, or enter into any treaty for making war, against any other prince or state than such as is actually committing hostilities or making preparations as aforesaid, and may not make any treaty for guaranteeing the possessions of any prince or state except on the consideration of that prince or state actually engaging to assist His Majesty against such hostilities commenced or preparations made as aforesaid.

(3) When the Governor-General in Council commences any hostilities or makes any treaty, he shall forth with communicate the same, with the reasons therefor, to the Secretary of State.

PART V.

LOCAL GOVERNMENTS.

General.

Relation of local governments to Governor-General in Council.

45. (1) [24][Subject to the provisions of this Act and rules made thereunder] every local government shall obey the order of the Governor-General in Council, and keep him constantly and diligently informed of its proceedings and of all matters which ought, in its

23. Section 43A was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

24 These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

opinion, to be reported to him, or as to which he requires information, and as under his superintendence, direction and control in all matters relating to the government of its province.

[25][* * * * * *

(*3*) The authority of a local government is not superseded by the presence in its province of the Governor-General.

Classification of central and provincial subjects.

[1][**45A.** (*1*) Provision may be made by rules under this Act—

(*a*) for the classification of subjects, in relation to the functions of government,, as central and provincial subjects, for the purpose of distinguishing the functions of local governments and local legislatures from the functions of the Governor-General in Council and the Indian legislature;

(*b*) for the devolution of authority, in respect of provincial subjects to local governments, and for the allocation of revenues or other moneys to those governments;

(*c*) for the use under the authority of the Governor-General in Council of the agency of local governments in relation to central subjects, in so far as such agency may be found convenient, and for determining the financing conditions of such agency; and

(*d*) for the transfer from among the provincial subjects or subjects (in this Act referred to as "transferred subjects") to the administration of the governor acting with ministers appointed under this Act, and for the allocation of revenues or moneys for the purpose of such administration.

(2) Without prejudice to the generality of the foregoing powers, rules made for the above-mentioned purposes may—

(i) regulate the extent and condition of such devolution, allocation and transfer;

(ii) provide for fixing the contributions payable by local governments to the governor-General in Council, and making such contributions a first charge on allocated revenues of moneys;

(iii) provide for constituting a finance department in any province, and regulating the functions of that department;

(vi) provide for regulating the exercise of the authority vested in the local government of a province over members of the public services therein:

(v) provide for the settlement of doubts arising as to whether any matter does or does not relate to a provincial subject or a transferred subject, and for the treatment of matters which affect both a transferred subject and a subject which is not transferred; and

(vi) make such consequential and supplemental provisions as appear necessary or expedient.

Provided that without prejudice to any general power of revoking or altering rules under this Act, the rules shall not authorise the revocation or suspension of the transfer of any subject except with the sanction of the Secretary of State in Council.

(*3*) The powers of superintendence, direction, and control over local governments vested in the Governor-General in Council under this Act shall, in relation to transferred subjects, be exercised only for such purposes as

25. Sub-section (2) was omitted by Part III of *ibid.*
1. Section 45A was inserted by Part I of Sch. II of *ibid.*

may be specified in rules made under this Act, but the Governor-General in Council shall be the sole judge as to whether the purpose of the exercise of such powers in any particular case comes within the purposes so specified.

(*4*) The expressions "central subjects" and "provincial subjects" as used in this Act mean subjects so classified under the rules.

Provincial subjects, other than transferred subjects, are in this Act referred to as "reserved subjects."]

Governorships.

Local government in governors' provinces.

46. [2][(*1*) The presidencies of Fort William in Bengal, Fort St. George, and Bombay, and the provinces known as the United Provinces, the Punjab, Bihar and Orissa, the Central Provinces and Assam, shall each be governed, in relation to reserved subjects, by a governor in council, and in relation to transferred subjects (save as otherwise provided by this Act) by the governor acting with ministers appointed under this Act.]

The said presidencies and provinces are in this Act referred to as "governors' provinces" and the two first named presidencies are in this Act referred to as the presidencies of Bengal and Madras.]

[3][(*2*) The governors of the said presidencies are appointed by His Majesty by warrant under the Royal Sign Manual, and the governors of the said provinces shall be so appointed after consultation with the Governor-General.]

(*3*) The Secretary of State may, if he thinks fit, by order revoke or suspend, for such period as he may direct, the appointment of a council for any or all of [4][the governors' provinces]; and whilst any such order is in force the governor of the [5][province] to which the order refers shall have all the powers of the Governor thereof in Council.

Members of governors' executive councils.

47. (*1*) The members of a governor's executive council shall be appointed by his Majesty by warrant under the Royal Sign Manual, and shall be of such number, not exceeding four, as the Secretary of State in Council directs.

(*2*) [6][One at least of them must be a person who at the time of his appointment has been] for at least twelve years in the service of the Crown in India.

[7][(*3*) Provision may be made by rules under this Act as to the qualifications to be required in respect of members of the executive council of the governor of a province in any case where such provision is not made by the foregoing provisions of this section.]

Vice-president of council.

48. Every governor of a [8][province] shall appoint a member of his executive council to be vice-president thereof.

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2. Sub-section (*1*) of section 40 was substituted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).
3. This sub-section was substituted by Part II of *ibid.*
4. These words were substituted for the words "those presidencies" by *ibid.*
5. This word was substituted for the word "presidency" by *ibid.*
6. These words were substituted for the words "Two at least of them must be persons who at the time of their appointment have been" by *ibid.*
7. This sub-section was substituted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).
8. This word was substituted for the word "Presidency" by *ibid.*

[9][**49.** (*1*) All orders and other proceedings of the government of a governor's province shall be expressed to be made by the government of the province, and shall be authenticated as the governor may by rule direct, so, however that provision shall be made by rule for distinguishing orders and other proceedings relating to transferred subjects from other orders and proceedings.

Business of governor in council and governor with ministers.

Orders and proceedings authenticated as aforesaid shall not be called into question in any legal proceeding on the ground that they were not duly made by the government of the province.

(*2*) The governor may make rules and orders for the more convenient transaction of business in his executive council and with his ministers, and every order made or act done in accordance with those rules and orders shall be treated as being the order or the act of the government of the province.

The governor may also make rules and orders for regulating the relations between his executive council and his ministers for the purpose of the transaction of the business of the local government:

Provided that any rules or orders made for the purposes specified in this section which are repugnant to the provisions of any other rules made under this Act shall, to the extent of that repugnancy, but not otherwise, be void.]

50. (*1*) If any difference of opinion arises on any question brought before a meeting of a governor's executive council, the Governor in Council shall be bound by the opinion the decision of the majority of those present, and if they are equally divided the governor or other person presiding shall have a second or casting vote.

Procedure in case of difference of opinion in executive council.

(*2*) Provided that, whenever any measure is proposed before a governor in council whereby the safety, tranquillity or interests of his [8][province], or of any part thereof, are or may be, in the judgment of the governor, essentially affected, and he is of opinion either that the measure proposed ought to be adopted and carried into execution, or that it ought to be suspended or rejected, and the majority present at a meeting of the council dissent from that opinion, the governor may, on his own authority and responsibility, by order in writing, adopt, suspend or reject the measure, in whole or in part.

(*3*) In every such case the governor and the members of the council present at the meeting shall mutually exchange written communications (to be recorded at large in their secret proceedings) stating the grounds of their respective opinions, and the order of the governor shall be signed by the governor and by those members.

(*4*) Nothing in this section shall empower a governor to do anything which he could not lawfully have done with the concurrence of his council.

51. If a governor is obliged to absent himself from any meeting of his executive council, by indisposition or any other cause, [10][***] the vice-president, or, if he is absent, the senior [11][*] member present at the meeting, shall preside thereat, with the like powers as the governor would have had if present:

Provision for absence of governor from meetings of council.

9. Section 49 was substituted by Part I of *ibid.*
10. The words "and signifies his intended absence to the council" were omitted by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).
11. The word "civil" was omitted by *ibid.*

Provided that if the governor is at the time resident at the place where the meeting is assembled, and is not prevented by indisposition from signing any act of council made at the meeting, the act shall require his signature; but, if he declines or refuses to sign it, the like provisions shall have effect as in cases where the governor, when present, dissents from the majority at a meeting of the council.

Appointment of ministers and council secretaries.

[12][**52.** (*1*) The governor of a governor's province may, by notification, appoint ministers, not being members of his executive council or other officials, to administer transferred subjects, and any ministers so appointed shall hold office during his pleasure.

There may be paid to any minister so appointed in any province the same salary as is payable to a member of the executive council in that province, unless a smaller salary is provided by vote of the legislative council of the province.

(*2*) No minister shall hold office for a longer period than six months, unless he is or becomes an elected member of the local legislature.

(*3*) In relation to transferred subjects, the governor shall be guided by the advice of his ministers, unless he sees sufficient cause to dissent from their opinion, in which case he may require action to be taken otherwise than in accordance with that advice:

Provided that rules may be made under this Act for the temporary administration of a transferred subject where, in cases of emergency, owing to a vacancy, there is no minister in charge of the subject, by such authority and in such manner as may be prescribed by the rules.

(*4*) The governor of a governor's province may at his discretion appoint from among the non-official members of the local legislature, council secretaries, who shall hold office during his pleasure, the discharge such duties in assisting members of the executive council and ministers as he may assign to them.

There shall be paid to council secretaries so appointed such salary as may be provided by a vote of the legislative council.

A council secretary shall cease to hold office if he ceases for more than six months to be a member of the legislative council.]

Constitution of new provinces, etc., and provision as to backward tracts.

[13][**52A.** (*1*) The Governor-General in Council may, after obtaining an expression of opinion from the local government and the local legislature affected, by notification, with the sanction of His Majesty previously signified by the Secretary of State in Council, constitute a new governor's province, or place part of a governor's province under the administration of a deputy-governor to be appointed by the Governor-General, and may in such case apply, with such modifications as appear necessary or desirable, all or any of the provisions of this Act relating to governor's provinces, or provinces under a lieutenant-governor or chief commissioner, to any such new province or part of a province.

(*2*) The Governor-General in Council may declare any territory in British India to be a "backward tract," and may, by notification, with such

12. Section 52 was substituted by Part II of *ibid.*
13. Sections 52A and 52B were inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo.. 5, Ch. 101).

sanction as aforesaid, direct that this Act shall apply to that territory subject to such exceptions and modifications as may be prescribed in the notification.

Where the Governor-General in Council has, by notification, directed as aforesaid, he may, by the same or subsequent notification, direct that any Act of the Indian legislature shall not apply to the territory in question or any part thereof, or shall apply to the territory or any part thereof subject to such exceptions or modiffications as the Governor-General thinks fit, or may authorise the governor in council to give similar directions as respects any Act of the local legislature.]

Saving.

[13][**52B.** (*1*) The validity of any order made or action taken after the commencement of the Government of India Act, 1919, by the Governor-General in Council or by a local government which would have been within the powers of the Governor-General in Council or of such local government if that Act had not been passed, shall not be open to question in any legal proceedings on the ground that by reason of any provision of that Act or this Act, or of any rule made by virtue of any such Provision, such order or action has ceased to be within the powers of the Governor-General in Council or of the government concerned.

(*2*) The validity of any order made or action taken by a governor in council, or by a governor acting with his ministers, shall not be open to question in any legal proceedings on the ground that such order or action relates or does not relate to a transferred subject, or relates to a transferred subject of which the minister is not in charge.]

Lieutenant-Governorships and other Provinces.

Lieutenant-governorships.

53. (1) [14][The province of] Burma is, subject to the provisions of this Act governed by lieutenant-governor [15][* * * *].

(*2*) The Governor-General in Council may, by notification, with sanction of his Majesty previously signified by the Secretary of State in Council, constitute a new province under a lieutenant-governor.

Appointment, etc., of lieutenant-governors.

54. (*1*) A Lieutenant-governor is appointed by the Governor-General with the approval of His Majesty.

(*2*) A lieutenant-Governor must have been, at the time of his appointment, at least ten years in the service of the Crown in India.

[16][(*3*)] * * * * *

Power to create executive councils for lieutenant-governors.

55. (*1*) The Governor-General in Council, with the approval of the Secretary of State in Council, may, by notificatton, create a council in any province under a lieutenant-governor, for the purpose of assisting the governor in the executive government of the province, and by such notification—

(*a*) make provision for determining what shall be the number (not exceeding four) and qualifications of the members of the council; and

(*b*) make provision for the appointment of temporary or acting

14. These words were substituted for the words "Each of the following provinces, namely those known as Bihar and Orissa the United Provinces of Agra and Oudh.. the Punjab and" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo 5, Ch. 101).

15. The words "with or without an executive council" were omitted by *ibid*.

16. Sub-section (*3*) was omitted by Part III of *ibid*.

members of the council during the absence of any member from illness or otherwise, [17][and for supplying a vacancy until it is permanently filled,] and for the procedure to be adopted in case of a difference of opinion between a lieutenant-governor and his council, and in the case of equality of votes, and in the case of a lieutenant-governor being obliged to absent himself from his council by indisposition or any other cause:

Provided that before any such notification is published, a draft thereof shall be laid before each House of Parliament for not less than sixty days during the session of Parliament, and if, before the expiration of that time, an address is presented to His Majesty by either House of Parliament against the draft or any part thereof, no further proceedings shall be taken thereon, without prejudice to the making of any new draft.

(2) Every notification under this section shall be laid before both Houses for Parliament as soon as may be after it is made.

(3) Every member of a lieutenant-governor's executive council shall be appointed by the Governor-General, with the approval of His Majesty.

Vice-president of lieutenant-governor's council.

56. A lieutenant-governor who has an executive council shall appoint a member of the council to be vice-president thereof, and that vice-president shall preside at meetings of the council in the absence of the lieutenant-governor.

Business of lieutenant-governor in council.

57. A lieutenant-governor who has an executive council may, with the consent of the Governor-General in Council, make rules and orders for more convenient transaction of business in the council, and every order made, or act done, in accordance with such rules and orders, shall be treated as being the order or the act of the lieutenant-governor in council, [18][An order made as aforesaid shall not be called into question in any legal proceedings on the ground that it was not duly made by the lieutenant-governor in council.]

Chief commissioners.

58. Each of the following provinces, namely, those known as [19][* * *] the North-West Frontier Province, British Baluchistan, Delhi, Ajmer-Merwara, Coorg, and the Andaman and Nicobar Islands, is, subject to the provisions of this Act, administered by a chief commissioner.

Power to place territory under authority of Governor-General in Council.

59. The Governor-General in Council may, with the approval of the Secretary of State, and by notification, take any part of British India under the immediate authority and management of the Governor-General in Council, and thereupon give all necessary orders and directions respecting the administration of that part by placing it under a chief commissioner or by otherwise providing for its administration.

Boundaries.

Power to declare and alter boundaries of provinces.

60. The Governor-General in Council may, by notification, declare, appoint or alter the boundaries of any of the provinces into which British India is for the time being divided, and distribute the territories in such manner as may seem expedient, subject to these qualifications, namely:—

(1) an entire district may not be transferred from one province to

17. These words were inserted by *ibid.*
18. These words were inserted by Part II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).
19. The words "Assam, the Central Provinces" were omitted by *ibid.*

another without the previous sanction of the Crown, signified by the Secretary of State in Council; and

(2) any notification under this section may be dis-allowed by the Secretary of State in Council.

Saving as to laws.

61. An alteration in pursuance of the foregoing provisions of the mode of administration of any part of British India, or of the boundaries of any part of British India, shall not affect the law for the time being in force in that part.

Power to extend boundaries of presidency towns.

62. The Governor of Bengal in Council, the Governor of Madras in Council, and the Governor of Bombay in Council may, with the approval of the Secretary of State in Council and by notification, extend the limits of the towns of Calcutta, Madras and Bombay, respectively; and any act of Parliament, letters patent, charter, law or usage conferring jurisdiction, power or authority within the limits of those towns respectively shall have effect within the limits as so extended.

PART VI.

INDIAN LEGISLATION.

The Indian Legislature.

Indian legislature.

[20] [**63.** Subject to the provisions of this Act, the Indian legislature shall consist of the Governor-General and two chambers, namely, the Council of State and the Legislative Assembly.

Except as otherwise provided by or under this Act, a Bill shall not be deemed to have been passed by the Indian legislature unless it has been agreed to by both chambers, either without amendment or with such amendments only as may be agreed to by both chambers.]

Council of State.

[21] [**63A.** (*1*) The Council of State shall consist of not more than sixty members nominated or elected in accordance with rules made under this Act, of whom not more than twenty shall be official members.

(*2*) The Governor-General shall have power to appoint, from among the members of the Council of State, a president and other persons to preside in such circumstances as he may direct.

(*3*) The Governor-General shall the right of addressing the Council of State, and may for that purpose require the attendance of its members.]

Legislative Assembly.

[21] **63B.** (*1*) The Legislative Assembly shall consist of members nominated or elected in accordance with rules made under this Act.

(*2*) The total number of members of the Legislative Assembly shall be one hundred and forty. The number of non-elected members shall be forty, of whom twenty-six shall be official members. The number of elected members shall be one hundred:

Provided that rules made under this Act may provide for increasing the number of members of the Legislative Assembly as fixed by this section, and

20. Sections 63, 63A, 63B, 63C, 63D, 63E, and 64 were substituted for sections 63 and 64 by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101.)

21. *See* the footnote on page 33 *supra*.

may vary the proportion which the classes of members bear one to another, so, however, that at least five-sevenths of the members of the Legislative Assembly shall be elected members, and at least one-third of the other members shall be non-official members.

(*3*) The Governor-General shall have the right of addressing the Legislative Assembly, and may for that purpose require the attendance of its members.]

President of Legislative Assembly.

[21] **63C.** (*1*) There shall be a president of the Legislative Assembly, who shall, until the expiration of four years from the first meeting thereof, be a person appointed by the Governor-General, and shall thereafter be a member of the Assembly elected by the Assembly and approved by the Governor-General:

Provided that, if at the expiration of such period of four years the Assembly is in session, the president then in office shall continue in office until the end of the current session, and the first election of a president shall take place at the commencement of the ensuing session.

(*2*) There shall be a deputy president of the Legislative Assembly, who shall preside at meetings of the Assembly in the absence of the president, and who shall be a member of the Assembly elected by the Assembly and approved by the Governor-General.

(*3*) The appointed president shall hold office until the date of the election of a president under this section, but he may resign his office by writing under his hand addressed to the Governor-General, or may be removed from office by order of the Governor-General, and any vacancy occurring before the expiration of his term of office shall be filled by a similar appointment for the remainder of such term.

(*4*) An elected president and a dputy-president shall cease to hold office if they cease to be members of the Assembly. They may resign office by writing under their hands addressed to the Governor-General, and may be removed from office by a vote of the Assembly with the concurrence of the Governor-General.

(*5*) A president and deputy-president shall receive such salaries as may be determined in the case of an appointed president by the Governor-General, and in the case of an elected president and a deputy-president by Act of the Indian legislature.]

Duration and session of Legislative Assembly and Council of State.

[22] **63D.** (*1*) Every Council of State shall continue for five years, and every Legislative Assembly for three years from its first meeting:

Provided that—

(*a*) either chamber of the legislature may be sooner dissolved by the Governor-General; and

(*b*) any such period may be extended by the Governor-General if in special circumstances he so thinks fit; and

(*c*) after the dissolution of either chamber the Governor-General shall appoint a date not more than six months, or with the sanction of the Secretary of State not more than nine months, after the date of dissolution for the next session of that chamber.

(*2*) The Governor-General may appoint times and places for holding the sessions of either chamber of the Indian legislature as he thinks fit,

[22] *See* the footnote on page 22 *supra*.

and may also from time to time, by notification or otherwise, prorogue such sessions.

(*3*) Any meeting of either chamber of the Indian legislature may be adjourned by the person presiding.

(*4*) All questions in either chamber shall be determined by a majority of votes of members present other than the presiding member, who shall, however, have an exercise a casting vote in the case of an equality of vote.

(*5*) The powers of either chamber of the Indian legislature may be exercised notwithstanding any vacancy in the chamber.

Membership of both chambers.

[23]**63E.** (*1*) 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.

(*2*) If an elected member of either chamber of the Indian legislature becomes a member of the other chamber, his seat in such first-mentioned chamber shall thereupon become vacant.

(*3*) If any person is elected a member of both chambers of the Indian legislature he shall, before he takes his seat in either chamber, signify in writing the chamber of which he desires to be a member, and thereupon his seat in the other chamber shall become vacant.

(*4*) Every member of the Governor-General's Executive Council shall be nominated as a member of one chamber of the Indian legislature, and shall have the right of attending in and addressing the other chamber, but shall not be a member of both chambers.]

Supplementary provisions as to composition of Legislative Assembly and Council of State.

[23]**64.** (*1*) Subject to the provisions of this Act provision may be made by rules under this Act as to—

(*a*) the term of office of nominated members of the Council of State and the Legislative Assembly, and the manner of filling casual vacancies occurring by reason of absence of members from India, inability to attend to duty, death, acceptance of office, or resignation duly accepted, or otherwise; and

(*b*) the conditions under which and the manner in which persons may be nominated as members of the Council of State or the Legislative Assembly; and

(*c*) the qualification of electors, the constitution of constituencies, and the method of election for the Council of State and the Legislative Assembly (including the number of members to be elected by communal and other electorates) and any matters incidental or ancillary thereto; and

(*d*) the qualifications for being or for being nominated or elected as members of the Council of State or the Legislative Assembly and

(*e*) the final decision of doubts or disputes as to the validity of an election; and

(*f*) the manner in which the rules are to be carried into effect.

23. *See* the footnote on page 33 *supra*.

(*2*) Subject to any such rules, any person who is a ruler or subject of any state in India may be nominated as a member of the Council of State or the Legislative Assembly.]

Power of Indian legislature.

65. (*1*) The [24] [Indian legislature] has power to make laws—

(*a*) for all persons, for all courts, and for all places and things, within British India; and

(*b*) for all subjects of His Majesty and servants of the Crown within other parts of India; and

(*c*) for all native Indian subjects of His Majesty, without and beyond as well as within British India; and

(*d*) for the Government officers, soldiers [airmen] and followers in His Majesty's Indian forces, wherever they are serving, in so far as they are not subject to the Army Act [25] [or the Air Force Act]; and

(*e*) for all persons employed or serving in or belonging to the Royal Indian Marine Service; and

(*f*) for repealing or altering any laws which for the time being are in force in any part of British India or apply to persons for whom the [24] [Indian legislature] has power to make laws.

(*2*) Provided that the [24] [Indian legislature] has not, unless expressly so authorised by Act of Parliament, power to make any law repealing or affecting—

(*i*) any Act of Parliament passed after the year one thousand eight hundred and sixty and extending to British India (including the Army Act, [25] [he Air Force Act] and any Act amending the same; or

(*ii*) any Act of Parliament enabling the Secretary of State in Council to raise money in the United Kingdom for the government of India;

and has not power to make any law affecting the authority of Parliament, or any part of the unwritten laws or constitution of the United Kingdom of Great Britain and Ireland whereon may depend in any degree the allegiance of any prson to the Crown of the United Kingdom, or affecting the sovereignty or dominition of the Crown over any part of British India.

(*3*) The [24] [Indian legislature] has not power without the previous approval of the Secretary of State in Council to make any law empowering any court other than a high court, to sentence to the punishment of death any of His Majesty's subjects born in Europe, or the children of such subjects, or abolishing any high court.

Laws for the Royal Indian Marine Service.

66. (*1*) A law made under this Act for the Royal Indian Marine Service shall not apply to any offence unless the vessel to which the offender belongs is at the time of the commission of the offence within the limits of Indian waters that is to say the high seas between the Cape of Good Hope on the West and the Straits of Magellon on the East and any territorial waters between those limits.

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24. These words were substituted for the words "Governor-General in Legislative Council by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5 Ch. 101)".

25. These words were inserted by Part III of *ibid.*

(*2*) The punishments imposed by any such law for offences shall be similar in character to, and not in excess of, the punishments which may, at the time of making the law, be imposed for similar offences under the Acts relating to His Majesty's Navy except that, in the case of persons other than Europeans or Americans, imprisonment for any term not exceeding fourteen years, or transportation for life or any less term, may be substituted for penal servitude.

Business and proceedings in Indian legislature.

67. [1][(*1*) Provision may be made by rules under this Act for regulating the course of business and the preservation of order in the chambers of the Indian legislature, and as to the persons to preside at the meetings of the Legislative Assembly in the absence of the president and the deputy president; and the rules may provide for the number of members required to constitute a quorum, and for prohibiting or regulating the asking of questions on, and the discussion of any subject specified in the rules.]

(*2*) It shall not be lawful, without the previous sanction of the Governor-General, to introduce at any meeting of [2][either chamber of the Indian legislature] any measure affecting—

(*a*) the public debt or public revenues of India or imposing any charge on the revenues of India; or

(*b*) the religion or religious rites and usages of any class of British subjects in India; or

(*c*) the discipline or maintenance of any part of His Majesty's military, [3][naval, or air] forces; or

(*d*) the relations of the Government with foreign princes or states—

[4][or any measure—

(*i*) regulating any provincial subject, or any part of a provincial subject, which has not been declared by rules under this Act to be subject to legislation by the Indian legislature; or

(*ii*) repealing or amending any Act of a local legislature; or

(*iii*) repealing or amending any Act or ordinance made by the Governor-General.]

[5][(*2a*) Where in either chamber of the Indian legislature any Bill has been introduced, or is proposed to be introduced, or any amendment to a Bill is moved, or proposed to be moved, the Governor-General may certify tranquillity of British India, or any part thereof, and may direct that no proceedings, or that no further proceedings, shall be taken by the chamber in relation to the Bill, clause or amendment, and effect shall be given to such direction.]

[6][(*3*) If any Bill which has been passed by one chamber is not, within six months after the passage of the Bill by that chamber, passed by the other chamber either without amendments or with such amendments as may be

1. This sub-section was substituted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).
2. These words were substituted for the words "the Council" by Part II of *ibid.*
3. These words were substituted for the words "or naval" by Part III of *ibid.*
4. These clauses were inserted by Part II of *ibid.*
5. Sub-section (*2a*) was inserted by Part II of Sch. II of the Government of India Act 1919 (9 & 10 Geo. 5, Ch. 101).
6. Sub-sections (*3*), (*4*), (*5*), (*6*) & (*7*) were substituted for sub-section (*3*) by Part I of *ibid.*

agreed to by the two chambers, the Governor-General may in his discretion refer the matter for decision to a joint sitting of both chambers: Provided that standing orders made under this section may provide for meetings of members of both chambers appointed for the propose, in order to discuss any difference of opinion which has arisen between the two chambers.]

[6][(*4*) Without prejudice to the powers of the Governor-General under section sixty-eight of this Act, the Governor-General may where a Bill has been passed by both chambers of the Indian legislature, return the Bill for reconsideration by either chamber.]

[6][(*5*) Rules made for the purpose of this section may contain such general and supplemental provisions as appear necessary for the purpose of giving full effect to this section.]

[6][(*6*) Standing orders may be made providing for the conduct of business and the procedure, to be followed in either chamber of the Indian legislature in so far as these matters are not provided for by rules made under this Act. The first standing orders shall be made by the Governor-General in Council, but may, with the consent of the Governor-General, be altered by the chamber to which they relate.

Any standing order made as aforesaid which is repugnant to the provisions of any rules made under this Act shall, to the extent of that repugnancy but not otherwise, be void.]

[6][(*7*) Subject to the rules and standing orders affecting the chamber there shall be freedom of speech in both chambers of the Indian legislature. No person shall be liable to any proceedings in any court by reason of his speech or vote in either chamber, or by reason of anything contained in any official report of the proceedings of either chamber.]

Indian budget.

[7][67A. (*1*) The estimated annual expenditure and revenue of the Governor-General in Council shall be laid in the form of a statement before both chambers of the Indian legislature in each year.

(*2*) No proposal for the appropriation of any revenue or moneys for any purpose shall be made except on the recommendation of the Governor-General.

(*3*) The proposals of the Governor-General in Council for the appropriation of revenue or moneys relating to the following heads of expenditure shall not be submitted to the vote of the Legislative Assembly, nor shall they be open to discussion by either chamber at the time when the annual statement is under consideration, unless the Governor-General otherwise directs:—

(*i*) interest and sinking fund charges on loans; and

(*ii*) expenditure of which the amount is prescribed by or under any law; and

(*iii*) salaries and pensions of persons appointed by or with the approval of His Majesty or by the Secretary of State in Council; and

(*iv*) salaries of chief commissioners and judicial commissioners; and

(*v*) expenditure classified by the order of the Governor-General in Council as—

(*a*) ecclesiastical;

(*b*) political;

(*c*) defence.

7. Section 67A was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

(*4*) If any question arises whether any proposed appropriation of revenue or moneys does or does not relate to the above heads, the decision of the Governor-General on the question shall be final.

(*5*) The proposals of the Governor-General in Council for the appropriation of revenue or moneys relating to heads of expenditure not specified in the above heads shall be submitted to the vote of the Legislative Assembly in the form of demands for grants.

(*6*) The Legislative Assembly may assent or refuse its assent to any demand or may reduce the amount referred to in any demand by a reduction of the whole grant.

(*7*) The demands as voted by the Legislative Assembly shall be submitted to the Governor-General in Council, who shall, if he declares that he is satisfied that any demand which has been refused by the Legislative Assembly is essential to the discharge of his responsibilities, act as if it had been assented to, notwithstanding the withholding of such assent or the reduction of the amount therein referred to, by the Legislative Assembly.

(*8*) Notwithstanding anything in this section the Governor-General shall have power in cases of emergency, to authorise such expenditure as may, in his opinion, be necessary for the safety or tranquillity of British India or any part thereof.]

Provision for case of failure to pass legislation.

[8][**67B.** (*1*) Where either chamber of the Indian legislature refuses leave to introduce, or fails to pass in a form recommended by the Governor-General, any Bill, the Governor-General may certify that the passage of the Bill is essential for the safety, tranquillity, or interests of British India or any part thereof, and thereupon—

(*a*) If the Bill has already been passed by the other chamber, the Bill shall, on signature by the Governor-General, notwithstanding that it has not been consented to by both chambers, forthwith become an Act of the Indian legislature in the form of the Bill as originally introduced or proposed to be introduced in the Indian legislature,, or (as the case may be) in the form recommended by the Governor-General; and

(*b*) If the Bill has not already been so passed, the Bill shall be laid before the other chamber, and if consented to by that chamber in the form recommended by the Governor-General, shall become an Act as aforesaid on the signification of the Governor-General's assent, or, if not so consented to shall, on signature by the Governor-General, become an Act as aforesaid.

(*2*) Every such Act shall be expressed to be made by the Governor-General, and shall, as soon as practicable after being made, be laid before both Houses of Parliament, and shall not have effect until it has received His Majesty's assent, and shall not be presented for His Majesty's assent until copies thereof have been laid before each House of Parliament for not less than eight days on which that House has sat; and upon the signification of such assent by His Majesty in Council, and the notification thereof by the Governor-General, the Act shall have the same force and effect as an Act passed by the Indian legislature and duly assented to:

Provided that where in the opinion of the Governor-General a state of emergency exists which justifies such action, the Governor-General may

8. Section 67B was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

direct that any such Act shall came into operation forthwith, and thereupon the Act shall have such force and effect as aforesaid, subject, however, to disallowance by His Majesty in Council.]

Assent of Governor-General to Bills.

68. (*1*) When [9][a Bill] has been passed [10][by both chambers of the Indian legislature], the Governor-General, [11][* * *], may declare that he assents to the [12][Bill] or that he reserves the [12][Bill] for the signification of His Majesty's pleasure thereon.

(*2*) [13][A Bill passed by both chambers of the Indian legislature shall not become an Act] until the Governor-General has declared his assent thereto, or, in the case of [14][a Bill] reserved for the signification of His Majesty's pleasure, until His Majesty [15][in Council] has signified his assent [16][* * *], and that assent has been notified by the Governor-General.

Powers of Crown to disallow Acts.

69. (1) When an Act of the [17][Indian legislature] has been assented to by the Governor-General, he shall send to the Secretary of State an authentic copy thereof, and it shall be lawful for His Majesty [18][in Council] to signify [18][* * *] his disallowance of any such Act.

(*2*) Where the disallowance of any such Act has been so signified, the Governor-General shall forthwith notify the disallowance, and thereupon the Act, as from the date of the notification, shall become void accordingly.

70. [*Rules for conduct of legislative business*]—Omitted by Part II of Sch. II of 9 & 10 Geo. 5, Ch. 101.

Regulations and Ordinances.

Power to make regulations.

71. (*1*) The local Government of any part of British India to which this section for the time being applies may propose to the Governor-General in Council the draft of any regulation for the peace and good government of that part, with the reasons for proposing the regulation.

(*2*) Thereupon the Governor-General in Council may take any such draft and reasons into consideration; and when any such draft has been approved by the Governor-General, it shall be published in the Gazette of India and in the local official gazette, if any, and shall thereupon have the like force of law and be subject to the like disallowance as if it were an Act of the [19][Indian legislature].

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9. These words were substituted for the words "an Act" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).
10. These words were substituted for the words "at a meeting of the Indian Legislative Council" by *ibid.*
11. The words "whether he was or was not present in Council at the passing thereof" were omitted by *ibid.*
12. This word was substituted for the word "Act" by *ibid.*
13. These words were substituted for the words "An Act of the Governor-General in Legislative Council has not validity" by *ibid.*
14. These words were substituted for the words "an Act" by *ibid.*
15. These words were inserted by *ibid.*
16. The words ' to the Governor-General through the Secretary of State in Council" were omitted by *ibid.*
17. These words were substituted for the words "Governor-General in Legislative Council" by *ibid.*
18. The words "through the Secretary of State in Council" were omitted by *ibid.*
19. These words were substituted for the words "Governor-General in Legislative Council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

(*3*) The Governor-General shall send to the Secretary of State in Council an authentic copy of every regulation to which he has assented under this section.

[20][(*3a*) A regulation made under this section for any territory shall not be invalid by reason only that it confers or delegates power to confer on courts or administrative authorities power to sit or act outside the territory in respect of which they have jurisdiction or functions, or that it confers or delegates power to confer appellate jurisdiction or functions on courts or administrative authorities sitting or acting outside the territory.]

(*4*) The Secretary of State may, by resolution in council, apply this section to any part of British India, as from a date to be fixed in the resolution, and withdraw the application of this section from any part to which it has been applied.

Power to make ordinances in case of emergency.

72. The Governor-General may, in cases of emergency, make and promulgate ordinances for tht peace and good government of British India or any part thereof, and any ordinance so made shall, for the space of not more than six months from its promulgation, have the like force of law as an Act passed by the [21][Indian legislature] but the power of making ordinances under this section is subject to the like restrictions as the power of the [21][Indian legislature] to make laws; and any ordinance made under this section is subject to the like disallowance as an Act passed by the [21][Indian legislature] and may be controlled or superseded by any such Act.

LOCAL LEGISLATURES.

(a) Governors' Provinces.

Composition of governors' legislative councils.

[22]**[72A.** (*1*) There shall be a legislative council in every governor's province, which shall consist of the members of the executive council and of the members nominated or elected as provided by this Act.

The governor shall not be a member of the legislative council, but shall have the right of addressing the council, and may for that purpose require the attendance of its members.

(*2*) The number of members of the governor's legislative councils shall be in accordance with the table set out in the First Schedule to this Act; and of the members of each council not more than twenty per cent. shall be official members, and at least seventy per cent. shall be elected members:

Provided that—

(*a*) subject to the maintenance of the above proportions, rules under this Act, may provide for increasing the number of members of any council, as specified in that schedule; and

(*b*) the governor may, for the purposes of any Bill introduced or or proposed to be introduced in this legislative council, nominate,

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20. This sub-section was inserted by section 2 (*1*) of the Government of India Amendment Act, 1916 (6 & 7 Geo. 5, Ch. 37).
21. These words were substituted for the words "Governor-General in Legislative Council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).
22. Section 72A was inserted by Part I of *ibid.*

in the case of Assam one person, and in the case of other provinces not more than two persons having special knowledge or experience of the subject-matter of the Bill, and those persons shall, in relation to the Bill, have for the period for which they are nominated all the rights of members of the council, and shall be in addition to the numbers above referred to; and

(*c*) members nominated to the legislative council of the Central Provinces by the governor as the result of elections held in the Assigned Districts of Berar shall be deemed to be elected members of the legislative council of the Central Provinces.

(*3*) The powers of a governor's legislative council may be exercised notwithstanding any vacancy in the council.

(*4*) Subject as aforesaid, provision may be made by rules under, this Act as to—

(*a*) the term of office of nominated members of governors' legislative councils' and the manner of filling casual vacancies occurring by reason of absence of members from India, inability to attend to duty, death, acceptance of office, resignation duly accepted, or otherwise: and

(*b*) the conditions under which and manner in which, persons may be nominated as members of governors' legislative councils; and

(*c*) the qualification of electors, the constitution of constituencies, and the method of election for governors' legislative councils, including the number of members to be elected by communal and other electorates, and any matters incidental or ancillary thereto; and

(*d*) the qualifications for being and for being nominated or elected a member of any such council; and

(*e*) the final decision of doubts or disputes as to the validity of any election; and

(*f*) the manner in which the rules are to be carried into effect:

Provided that rules as to any such matters as aforesaid may provide for delegating to the local government such power as may be specified in the rules of making subsidiary regulations affecting the same matters.

(*5*) Subject to any such rules any person who is a ruler or subject of any state in India may be nominated as a member of a governor's legislative council.

Sessions and duration of governors' legislative councils.

[23][**72B.** (*1*) Every governor's legislative council shall continue for three years from its first meeting:

Provided that—

(*a*) the council may be sooner dissolved by the governor; and governor; and

(*b*) the said period may be extended by the governor for a period not exceeding one year, by notification in the official gazette of the province, if in special circumstances (to be specified in the notification) he so think fit; and

23. Section 72B & 72C were inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 10).

(*c*) after the dissolution of the council the governor shall appoint a date not more than six months or, with the sanction of the Secretary of State, not more than nine months from the date of dissolution for the next session of the council.

(*2*) A governor may appoint such times and places for holding the sessions of his legislative council as he thinks fit, and may also, by notification or otherwise, prorogue the council.

(*3*) Any meeting of a governor's legislative council may be adjourned by the person presiding.

(*4*) All questions in a governor's legislative council shall be determined by a majority of votes of the members present other than the person presiding, who shall, however, have and exercise a casting vote in the case of an equality of votes.]

Presidents of governors' legislative councils.

[23] [**72C.** (*1*) There shall be a president of governor's legislative council, who shall, until the expiration of a period of four years from the first meeting of the council as constituted under this Act, be a person appointed by the governor, and shall thereafter be a member of the council elected by the council and approved by the governor:

Provided that, if at the expiration of such period of four years the council is in session, the president then in office shall continue in office until the end of the current session, and the first election of a president shall take place at the commencement of the next ensuing session.

(*2*) There shall be a deputy president of a governor's legislative council who shall preside at meetings of the council in the absence of the president, and who shall be a member of the council elected by the council and approved by the governor.

(*3*) The appointed president of a council shall hold office until the date of the first election of a president by the council under this section, but he may resign office by writing under his hand addressed to the governor, or may be removed from office by order of the governor, and any vacancy occurring before the expiration of the term of office of an appointed president shall be filled by a similar appointment for the remainder of such term.

(*4*) An elected president and a deputy-president shall cease to hold office on ceasing to be members of the council. They may resign office by writing under their hands addressed to the governor, and may be removed from office by a vote of the council with the concurrence of the governor.

(*5*) The president and the deputy-president shall receive such salaries as may be determined in the case of an appointed president, by the governor, and in the case of an elected president or deputy-president, by Act of the local legislature.]

Business and procedure in governors' legislative councils.

[24] [**72D.** (*1*) The provision contained in this section shall have effect with respect to business and procedure in governor's legislative councils.

(*2*) The estimated annual expenditure and revenue of the province shall be laid in the form of a statement before the council in each year, and the proposals of the local government for the appropriation of provincial revenues and other moneys in any year shall be submitted to the vote of the council

24. Section 72 D was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

in the form of demands for grants. The council may assent, or refuse its assent, to a demand, or may reduce the amount therein referred to either by a reduction of the whole grant or by the omission or reduction of any of the items of expenditure of which the grant is composed.

Provided that—

(*a*) the local government shall have power, in relation to any such demand, to act as if it had been assented to, notwithstanding the withholding of such assent or the reduction of the amount therein referred to, if the demand relates to a reserved subject, and the governor certifies that the expenditure provided for by the demand is essential to the discharge of his responsibility for the subject; and

(*b*) the governor shall have power in cases of emergency to authorise such expenditure as may be in his opinion necessary for the safety or tranquillity of the province, or for the carrying on of any department; and

(*c*) no proposal for the appropriation of any such revenues or other moneys for any purpose shall be made except on the recommendation of the governor, communicated to the council.

(*3*) Nothing in the foregoing sub-section shall require proposals to be submitted to the council relating to the following heads of expenditure:—

(*i*) contributions payable by the local government to the Governor-General in Council; and

(*ii*) interest and sinking fund charges on loans; and

(*iii*) expenditure of which the amount is prescribed by or under any law; and

(*iv*) salaries and pensions of persons appointed by or with the approval of His Majesty or by the Secretary of State in Council; and

(*v*) salaries of judges of the high court of the province and of the advocate-general.

(*4*) If any question arises whether any proposed appropriation of moneys does or does not relate to the above heads of expenditure, the decision of the governor shall be final.

(*5*) Where any Bill has been introduced or is proposed to be introduced or any amendment to a Bill is moved or proposed to be moved; the governor may certify that the Bill or any clause of it or the amendment affects the safety or tranquillity of his province or any part of it or of another province, and may direct that no proceedings or no further proceedings shall be taken by the council in relation to the Bill, clause or amendment, and effect shall be given to any such direction.

(*6*) Provision may be made by rules under this Act for the purpose of carrying into effect the foregoing provisions of this section and for regulating the course of business in the council, and as to the persons to preside over meetings thereof in the absence of the president and deputy-president, and the preservation of order at meetings; and the rules may provide for the number of members required to constitute a quorum and for prohibiting or required to constitute a quorum and for prohibiting or regulating the asking of questions on and the discussion of any subject specified in the rules.

(*7*) Standing orders may be made providing for the conduct of business and the procedure to be followed in the council, in so far as these matters are not provided for by rules made under this Act. The first standing orders

shall be made under this Act. The first standing orders shall be made by the governor in council, but may, subject to the assent of the governor, be altered by the local legislatures. Any standing order made as aforesaid, which is repugnant to the provisions of any rules made under this Act, shall, to the extent of that repugnancy but not otherwise, be void.

(*8*) Subject to the rules and standing orders affecting the council, there shall be freedom of speech in the governors' legislative councils. No person shall be liable to any proceedings in any court by reason of anything contained in any official report of the proceedings of any such council.]

Provision for case of failure to pass legislation in governors' legislative councils.

[25][**72E.** (*1*) Where a governor's legislative council has refused leave to introduce, or has failed to pass in a form recommended by the governor, any Bill relating to a reserved subject, the governor may certify that the passage of the Bill is essential for the discharge of his responsibility for the subject, and thereupon the Bill shall, notwithstanding that the council have not consented thereto be deemed to have passed, and shall on signature by the governor become an Act of the local legislature in the form of the Bill as originally introduced or proposed to be introduced in the council or (as the case may be) in the form recommended to the council by the governor.

(*2*) Every such Act shall be expressed to be made by the governor, and the governor shall forthwith send an authentic copy thereof to the Governor-General, who shall reserve the Act for the signification of His Majesty's pleasure, and upon the signification of such assent by His Majesty in Council, and the notification thereof by the Governor-General, the Act shall have the same force and effect as an Act passed by the local legislature and duly assented to:

Provided that where in the opinion of the Governor-General a state of emergency exists which justifies such action, he may, instead of reserving such Act, signify his assent thereto, and thereupon the Act shall have such force and effect as aforesaid, subject however to disallowance by His Majesty in Council.

(*3*) An Act made under this section shall, as soon as practicable after being made, be laid before each House of Parliament and an Act which is required to be presented for His Majesty's assent shall not be so presented until copies thereof have been laid before each House of Parliament for not less than eight days on which that House has sat.]

(b) Lieutenant-Governors' and Chief Commissioners' Provinces.

Legislative councils of lieutenant-governors and chief commissioners.

73. (*1*) For purposes of legislation, the council of [1][* * *] a lieutenant-governor having an executive council shall consist of the members of his executive council [2][and of members nominated or elected as hereinafter provided].

[3](*2*) * * *

25. Section 72E was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).
1. The words "a governor, or of" were omitted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).
2. These words were substituted for the words "with the addition of members nominated or elected in accordance with rules made under this Act" by *ibid.*
3. Sub-section (*2*) was omitted by Part III of *ibid.*

(*3*) The legislative council of a lieutenant-governor not having an executive council, or of a chief commissioner, shall consist of members nominated or elected [4] [as hereinafter provided].

[5] (*4*) * * *

74. [*Constitution of legislative councils in Bengal, Madras and Bombay.*] Omitted by Part II of Schedule II of 9 and 10 Geo. 5, Ch. 101.

75. [*Meetings of legislative councils of Bengal, Madras and Bombay.*] Omitted by Part II of Schedule II of 9 and 10 Geo. 5, Ch. 101.

Constitution of legislative councils of lieutenant-governors and chief commissioners.

76. (*1*) The number of members nominated or elected to the legislative council of a lieutenant-governor or chief commissioner the number of such members required to constitute a quorum, the term of office of such members, and the manner of filling casual vacancies occurring by reason of absence from India, inability to attend to duty, death, acceptance of office, or resignation duly accepted, or otherwise shall, in the case of each such council, be such as may be prescribed by rules made under this [6] [section].

[7] [Provided that the number of members so nominated or elected shall not, in the case of the legislative council of a lieutenant-governor, exceed one hundred.]

(*2*) At least one-third of the persons so nominated or elected to the legislative council of a lieutenant-governor or chief commissioner must be [8] [non-officials.]

(*3*) The Governor-General in Council may, with the approval of the Secretary of State in Council, make rules as to the conditions under which and manner in which persons resident in India may be nominated or elected members of any of those legislative councils and as to the qualifications for being and for being nominated or elected, a member of any of those councils, and as to any other matter for which rules are authorised to be made under this section, and as to the manner in which those rules are be carried into effect.

[9] [(*3a*) Rules made under this section may provide for the final decision of doubts or disputes as to the validity of an election.]

[9] [(*3b*) Subject to any rules made under this section, any person who is a ruler or subject of any state in India shall be eligible to be nominated a member of a legislative council.]

(*4*) All rules made under this section shall be laid before both Houses of Parliament as soon as may be after they are made, and those rules shall not be subject to repeal or alteration by the [10] [Indian legislature or the local legislature.]

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4. These words were substituted for the words "in accordance with rules (made under this Act" by Part II of *ibid.*
5. Sub-section (*4*) was omitted by *ibid.*
6. This word was substituted by *ibid.*
7. This proviso was substituted by *ibid.*
8. This word was substituted for the words "persons not in the civil or military service of the Crown in India" by *ibid.*
9. Sub-sections (*3a*) and (*3b*) were inserted by section 1 (*2*) of the Government of India (Amendment) Act, 1916 (*6 & 7, Geo. 5, Ch. 37*).
10. These words were substituted for the words 'Governor-General in Legislative Council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101)

Power to constitute local legislatures in lieutenant-governors and chief commissioners' provinces.

77. (*1*) When a new lieutenant-governorship is constituted under this Act, the Governor-General in Council may, by notification, with the sanction of His Majesty previously signified by the Secretary of State in Council, constitute the lieutenant-governor in legislative council of the province, as from a date specified in the notification, a local legislature for that province, and define the limits of the province for which the lieutenant-governor in legislative council is to exercise legislative powers.

(*2*) The Governor-General in Council may, by notification, extend the provisions of this Act relating to legislative councils of lieutenant-Governors, subject to such modifications and adaptations as he may consider necessary to any province for the time being under a chief commissioner.

Meetings of legislative councils of lieutenant-governors and chief commissioners.

78. (*1*) [11] [A lieutenant-governor or a chief commissioner who has a legislative council may appoint such times and places for holding the session of his legislative council as he thinks fit, and may also, by notification or otherwise, prorogue the council, and any meeting of the legislative council of a lieutenant-governor or chief commissioner may be adjourned by the person presiding.] Every lieutenant-governor who has no executive council, and every chief commissioner who has a legislative council, shall appoint a member of his legislative council to be vice-president thereof.

(*2*) In the absence of the lieutenant-governor or chief commissioner from any meeting of his legislative council the person to preside thereat shall be the vice-President of the council, or, in his absence, the member of the council who is highest in official rank among those holding office under the Crown who are present at the meeting, or, during the discussion of the annual financial statement or of any matter of general public interest, [12] [or when questions are asked] the vice-president, or the member appointed to preside[13] [* * *].

[14] [(*3*) All questions at a meeting of the legislative council of a lieutenant-governor or chief commissioner shall be determined by a majority of votes of the members present other than the lieutenant-governor, chief commissioner, or presiding member, who shall, however, have and exercise a casting vote in case of an equality of votes.]

[14] [(*4*) Subject to rules affecting the council, there shall be freedom of speech in the legislative councils of lieutenant-governors and chief commissioners. No person shall be liable to any proceedings in any court by reason of his speech or vote in those councils, or by reason of anything contained in any official report of the proceedings of those councils.]

79. [*Powers of local legislatures*].—Omitted by Part II of Sch. II of 9 and 10 Geo. 5, Ch. 101.

Business at meetings of councils of lieutenant-governors and chief commissioners.

80. (*1*) At a meeting of a local legislative council [other than a governor's legislative council][15] no motion shall be entertained other than a motion for leave to introduce a measure into the council for the purpose of enactment, or having reference to a measure intro-

11. These words were inserted by *ibid.*
12. These words were inserted by Sch. I of the Government of India (Amendment) Act 1916 (6 & 7 Geo. 5 Ch 37).
Part II of Sch. II of Government of India Act, 1919 (9 & 10 Geo. 5. Ch. 101).
14. Sub-sections (*3*) and (*4*) were substituted for sub-section (*3*) by *ibid.*
15. These words were inserted by *ibid.*

duced or proposed to be introduced into the council for that purpose or having reference to some rule for the conduct of business in the council and no business shall be tarnsacted other than the consideration of those motions or the alteration of those rules.

[16](2) * * *

(3) Notwithstanding anything in the foregoing provisions of this section, the local Government [17][of a province other than a governor's province] may, with the sanction of the Governor-General in Council, make rules authorising, at any meeting of the local legislative council, the discussion of the annual financial statement of the local government, and of any matter of general public interest, and the asking of questions, under such conditions and restrictions as may be prescribed in the rules. Rules made under this sub-section for any council to preside at any such discussion [18][or when questions are asked] in the place of the [19][*] lieutenant-governor or chief commissioner as the case may be, and of the vice-president, and shall be laid before both Houses of Parliament as soon as may be after they are made, and shall not be subject to repeal or alteration by the [20][Indian legislature] or the local legislature.

[21][(4) The local government of any province (other than a governor's province) for which a local legislative council is hereafter constituted under this Act shall, before the first meeting of that council, and with the sanction of the Governor-General in Council, make rules for the conduct of legislative business in that council (including rules for prescribing the mode of promulgation and authentication of laws passed by that council).]

[21][(5) The local legislature of any such province may, subject to the assent of the lieutenant-governor or chief commissioner, alter the rules for the conduct of legislative business in the local council (including rules prescribing the mode of promulgation and authentication of laws passed by the council, but any alteration so made may be disallowed by the Governor-General in Council and if so disallowed shall have no effect.]

(C) General.

Power of local legislatures.

[22]**80A.** (1) The local legislature of any province has power, subject to the provisions of this Act, to make laws for the peace and good government of the territories for the time being constituting that province.

(2) The local legislature of any province may, subject to the provisions of the sub-section next following, repeal or alter as to that province any law made either before or after the commencement of this Act by any authority in British India other than that local legislature.

(3) the local legislature of any province, may not, without the previous sanction of the Governor-General, make or take into consideration any law—

(a) imposing or authorising the imposition of any new tax unless

16. Sub-sec. (2) was omitted by *ibid.*
17. These words were inserted by *ibid.*
18. These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).
19. The word "governor" was omitted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo 5. Ch. 101).
20. These words were substituted for the words "Governor-General in Legislative Council" by *ibid.*
21. Sub-sections (4) and (5) were inserted by *ibid.*
22. Section 80A was inserted by Part I of *ibid.*

the tax is a tax scheduled as exempted from this provision by rules made under this Act; or

(*b*) affecting the public debt of India, or the customs duties, or any other tax or duty for the time being in force and imposed by the authority of the Governor-General in Council for the general purposes of the Government of India, provided that the imposition of alteration or a tax scheduled as aforesaid shall not be deemed to affect any such tax or duty; or

(*c*) affecting the discipline or maintenance of any part of his Majesty's naval, military, or air forces; or

(*d*) affecting the relations of the government with foreign princes or states; or

(*e*) regulating any central subject; or

(*f*) regulating any provincial subject which has been declared by rules under this Act to be, either in whole or a part, subject to legislation by the Indian legislature in respect of any matter to which such declaration applies; or

(*g*) affecting any power expressly reserved to the Governor-General in Council by any law for the time being in force; or

(*h*) altering or repealing the provisions of any law which, having been made before the commencement of the Government of India Act, 1919, by any authority in British India other than that local legislature, is declared by rules under this Act to be a law which cannot be repealed or altered by the local legislature without previous sanction; or

(*i*) altering or repealing any provision of an Act of the Indian legislature made after the commencement of the Government of India Act, 1919, which by the provisions of such first mentioned Act may not be repealed or altered by the local legislature without previous sanction:

Provided that an Act or a provision of an Act made by a local legislature, and subsequently assented to by the Governor-General in pursuance of this Act shall not be deemed invalid by reason only of its requiring the previous sanction of the Governor-General under this Act.

(*4*) The local legislature of any province has not power to make any law affecting any Act of Parliament.]

Vacation of seats in local legislative council.

[23] [**80B.** An official shall not be qualified for election as a member of a local legislative council, and if any non-official member of a local legislative council, whether elected or nominated, accepts any office in the service of the Crown in India, his seat on the council shall become vacant:

Provided that for the purposes of this provision a minister shall not be deemed to be an official and a person shall not be deemed to accept office on appointment as a minister.]

Financial proposals.

[23] [**80C.** It shall not be lawful for any member of any local legislative council to introduce, without the previous sanction of the governor, lieutenant-governor or chief commis-

23. Sections 80B and 80C were inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

soner, any measure affecting the public revenues of a province, or imposing any charge on those revenues.]

Assent to Bills.

81. (*1*) When [24] [a Bill] has been passed [25] [by] a local legislative council, the governor, lieutenant-governor or chief commissioner, [1] [* * * *] may declare that he assents to or withholds his assent from the [2] [Bill].

(*2*) If the governor, lieutenant-governor or chief commissioner withholds his assent from any such [2] [Bill], the [2] [Bill] [3] [shall not become an Act.]

(*3*) If the governor, lieutenant-governor or chief commissioner assents to any such [2][Bill], he shall forthwith send an authentic copy of the Act to the Governor-General, and the Act shall not have validity until the Governor-General has assented thereto and that assent has been signified by the Governor-Genral to, and published by, the governor, lieutenant-governor or chief commissioner.

(*4*) Where the Governor-General withholds his assent from any such Act, he shall signify to the governor, lieutenant-governor or chief commissioner in writing his reason for so withholding his assent.

Return and reservation of Bills.

[4]81A. (*1*) Where a Bill has been passed by a local legislative council, the governor, lieutenant-governor or chief commissioner may, instead of declaring that he assents to or withholds his assent from the Bill, return the Bill to the council for reconsideration, either in whole or in part, together with any amendments which he may recommend, or, in cases prescribed by rules under this Act, may, and if the rules so require, shall, reserve the Bill for the consideration of the Governor-General.

(*2*) Where a Bill is reserved for the consideration of the Governor-General, the following provisions shall apply:—

(*a*) The governor, lieutenant-governor or chief commissioner may, at any time within six months from the date of the reservation of the Bill, with the consent of the Governor-General, return the Bill for further consideration by the council with the recommendation that the council shall consider amendments thereto:

(*b*) After any Bill so returned has been further considered by the council, together with any recommendations made by the governor, lieutenant-governor or chief commissioner relating thereto, the Bill, if re-affirmed with or without amendment, may be again presented to the governor, lieutenant-governor or chief commissioner:

(*c*) Any Bill reserved for the consideration of the Governor-General shall, if assented to by the Governor-General within a period of six months from the date of such reservation, become law on due publication of such assent, in the some way as a Bill assented to by the governor, lieutenant-governor or chief commissioner, but if not assented to by the Governor-General within

24. These words were substituted for the words "an Act" by *ibid.*
25. This word was substituted for the words "at a meeting of" by *ibid.*
1. The words "whether he was or was not present in council at the passing of the Act were omitted by Part III of *ibid.*
2. This word substituted for the word "Act" by Part II of *ibid.*
3. These words were substituted for the words "has no effect" by of *ibid.*
4. Section 61 A was inserted by Part I of *ibid.*

such period of six months, shall lapse and be of no effect unless before the expiration of that period either—

(*i*) the Bill has been returned by the governor, lieutenant-governor or chief commissioner for further consideration by the council; or

(*ii*) in the case of the council not being in session, a notification has been published of an intention so to return the Bill at the commencement of the next session.

(*3*) The Governor-Generol may (except where the Bill has been reserved for his consideration), instead of assenting to or withholding his assent from any Act passed by a local legislature, declare that he reserves the Act for the signification of His Majesty's pleasure thereon, and in such case the Act shall not have validity until His Majesty in Council has signified his assent and his assent has been notified by the Governor-General.]

Power of Crown to disallow Acts of local legislatures.

82. (*1*) When [5] [an Act] has been assented to by the Governor-General, he shall send to the Secretary of State an authentic copy thereof, and it shall be lawful for His Majesty [6] [in Council] to signify [7] [* *] his disallowance of [8] [the Act].

(*2*) Where the disallowance of [8] [an Act] has been so signified, the governor, lieutenant-governor or chief commissioner shall forthwith notify the disallowance, and thereupon the Act, as from the date of the notification, shall become void accordingly.

83. [*Rules for conduct of legislative business.*]—Omitted by Part II of Schedule II of 9 and 10 Geo. 5, Ch. 101.

Validity of Indian Laws.

Removal of doubts as to validity of certain Indian laws.

84. (*1*) A law made by any authority in British India shall not be deemed invalid solely on account of any one or more of the following reasons:—

(*a*) in the case of [9] [an Act of the Indian legislature] [10] [or a local legislature], because it affects the prerogative of the Crown; or

(*b*) in the case of any law, because the requisite proportion of [11] [non-official members] was not complete at the date of its introduction into the council or its enactment; or

(*c*) in the case of [12] [an Act of] a local legislature, because it confers on magistrates, being justices of the peace, the same jurisdiction over European British subjects as that legislature, by Acts

5. These words were substituted for the words 'any such Act" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).
6. These words were inserted by Part II of the Government of India Act 1919 (9 & 10 Geo. 5, Ch. 101).
7. The words "through the Secretary of State in Council" were omitted by *ibid.*
8. These words were substituted for the words "any such Act" by *ibid.*
9. These words were substituted for the words "a law made by the Governor-General in Legislative Council" by *ibid.*
10. These words were inserted by section 2 (*2*) of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).
11. These words were substituted for the words 'members not holding office under the Crown in India" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).
12. These words were substituted for the words 'a law made by" by *ibid.*

duly made, could lawfully confer on magistrates in the exercise of authority over other British subjects in the like cases.

[12a][A law made by any authority in British India and repugnant to any provision of this or any other Act of Parliament shall, to the extent of that repugnancy, but not otherwise, be void.]

[13] [(*2*) Nothing in the Government of India Act, 1919, or this Act, or in any rule made thereunder, shall be construed as diminishing in any respect the powers of the Indian legislature as laid down in section sixty-five of this Act, and the validity of any Act, of the Indian legislature or any local legislature shall not be open to question in any legal proceedings on the ground that the Act affects a provincil subject, or a central subject, as the case may be, and the validity of any Act made by the governor of a province shall not be so open to question on the ground that it does not relate to a reserved subject.

PART VIA.

STATUTORY COMMISSION.

[14] [**84A.** (*1*) At the expiration of ten years after the passing of the Government of India Act, 1919, the Secretary of State with the concurrence of both Houses of Parliament shall submit for the approval of His Majesty the names of persons to act as a commission for the purposes of this section.

Statutory commission.

(*2*) The persons whose names are so submitted, if approved by His Majesty, shall be a commission for the purpose of enquiring into the working of the system of government, the growth of education, and the development of representative institutions, in British India, and matters connected therewith, and the commission shall report as to whether and to what extent it is desirable to establish the principle of responsible government, or to extend, modify, or restrict the degree of responsible government, then existing therein, including the question whether the establishment of second chambers of the local legislatures is or is not desirable.

(*3*) The commission shall also inquire into and report on any other matter affecting British India and the provinces, which may be referred to the commission by His Majesty.]

PART VII.

SALARIES, LEAVE OF ABSENCE, VACATION OF OFFICE, APPOINTMENTS, ETC.

85. (*1*) There shall be paid to the Governor-General of India, and to the other persons mentioned in the Second Schedule to this Act, out of the revenues of India, such salaries, not exceeding in any case the maximum specified in that behalf in that Schedule, and such allowances (if any) for equipment and voyage, as the Secretary of State in Council may by order fix in that behalf, and, subject to or in default of any such order, as are payable at the commencement of this Act:

Salaries and allowances of Governor-General and certain other officials in India.

(*2*) Provided as follows:—

(*a*) an order affecting salaries of members of the Governor-General's

12a. These words were inserted by the Government of India (Amendment) Act, 1916.
13. This sub-section was inserted by the Government of India Act, 1919.
14. Section 64A was inserted by Part I of Sch. II of the Government of India (Amendment) Act, 1919 (9 & 10 Geo. 5, Ch. 101).

executive council may not be made without the concurrence of a majority of votes at a meeting of the Council of India;

(*b*) if any person to whom this section applies holds or enjoys any pension or salary, or any office of profit under the Crown or under any public office, his salary under this section shall be reduced by the amount of the pension, salary or profits of office so held or enjoyed by him:

(*c*) nothing in the provisions of this section with respect to allowances shall authorise the imposition of any additional charge on the revenues of India.

(*3*) The remuneration payable to a person under this section shall commence on his taking upon himself the execution of his office, and shall be the whole profit or advantage which he shall enjoy from his office during his continuance therein:

[15][Provided that nothing in this sub-section shall apply to the allowances or other forms of profit and advantage which may have been sanctioned for such persons by the Secretary of State in Council.]

Leave of absence to members of executive councils.

86. (*1*) The Governor-General in Council may grant to any of the [16][*] members of his executive council [17][other than the Commander-in-Chief)], and a governor in council [18][and a lieutenant-governor in council] may grant to any member of his executive council, leave of absence under medical certificate for a period not exceeding six months.

(*2*) Where a member of council obtains leave of absence in pursuance of this section, he shall retain his office during his absence, and shall on his return and resumption of his duties be entitled to receive half his salary for the period of his absence; but if his absence exceeds six months his office shall become vacant.

Provisions as to absence from India.

87. (*1*) If the Governor-General, or a governor, or the Commander-in-Chief of His Majesty's forces in India and, [19][save in the case of absence on special duty or on leave under a medical certificate] if any [20][*] member of the executive council of the Governor-General, [21][(other than the Commander-in-Chief)] or any member of the executive council of a governor [22]or of a lieutenant-governor] departs from India, intending to return to Europe, his office shall thereupon become vacant.

[23](*2*)—(*5*) * * * * * * * * * * *

88. [*Conditional appointments.*]—Omitted by Part III of Sch. II of 9 and 10 Geo. 5, Ch. 101.

15. This proviso was inserted by Part III of Sch. II of the Government of India Act, 1916 (9 & 10 Geo. 5, Ch. 101).
16. The word "ordinary" was omitted by Part II of *ibid.*
17. These words were inserted by *ibid.*
18. These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).
19. These words were substituted for the words "subject to the foregoing provisions of this Act as to leave of absence" by Part III of Sch. II of the Government of India Act, 1919 (9 & 11 Geo. 5, Ch. 101).
20. The word 'ordinary" was omitted by Part II of *ibid.*
21. Those words were inserted by *ibid.*
22. These words were inserted by Part III of *ibid.*
23. Sub-sections (*2*), (*3*), (*4*) & (*5*) were repealed by Sch. II of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

89. (*1*) If any person [24][***] appointed [25][the office of Governor-General], is in India on or after the event on which he is to succeed, and thinks it necessary to exercise the powers of Governor-General before he takes his seat in council, he may make known by notification his appointment and his intention to assume the office of Governor-General.

Power for Governor-General to exercise powers before taking seat.

(*2*) After the notification, and thenceforth until he repairs to the place where the council may assemble, he may exercise alone all or any of the powers which might be exercised by the Governor-General in Council.

(*3*) All acts done in the council after the date of the notification, but before the communication thereof to the council, shall be valid, subject, or alteration by the person who has so assumed the office of Governor-General.

(*4*) When the office of Governor-General is assumed under the foregoing provision, the vice-president, or, if he is absent, the senior [2][member of the Council (other than the Commander-in-Chief)] then present, shall preside therein, with the same powers as the Governor-General would have had if present.

90. (*1*) If a vacancy occurs in the office of Governor-General when there is no [3][***] successor in India to supply the vacancy, the governor [4][of a presidency] who was first appointed to the office of governor [4][of a presidency] by His Majesty shall hold and execute the office of Governor-General until a successor arrives or until some person in India is duly appointed thereto.

Temporary vacancy in office of Governor-General.

(*2*) Every such acting Governor-General, while acting as such, shall have and may exercise all the rights and powers of the office of Governor-General, and shall be entitled to receive the emoluments and advantages appertaining to the office, foregoing the salary and allowances appertaining to his office of governor; and his office of governor shall be supplied, for the time during which he acts as Governor-General, in the manner directed by this Act with respect to vacancies in the office of governor.

(*3*) If, on the vacancy occurring, it appears to the governor, who by virtue of this section holds and executes the office of Governor-General, necessary to exercise the powers thereof before he takes his seat in council, he may make known by notification his appointment, and his intention to assume the office of Governor-General, and thereupon the provisions of [5][section eighty-nine of this Act] [6][***] shall apply.

(*4*) Until such a governor has assumed the office of Governor-General if no [7][***] successor is on the spot to supply such vacancy, the vice-presi-

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24. The words "entitled under a conditional appointment to succeed to the office of Governor-General or" were omitted by Part III of Sch. II of the Government of India Act. 1919 19 & 10 Geo. 5, Ch. 101).
25. The word 'absolutely" was omitted by Part III of *ibid.*
1. These words were substituted for the words "that office" by *ibid.*
2. These words were substituted for the words "ordinary member of the council" by Part II of *ibid.*
3. These words 'conditional or other" were omitted by Part III of *ibid.*
4. These words were inserted by Part II of *ibid.*
5. These words were substituted for the words, 'this Act" Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).
6. The words "respecting the assumption of the office by a person conditionally appointed succeed thereto" were omitted by *ibid.*
7. The words "conditional or other" were omitted by *ibid.*

dent, or, if he is absent the senior [8][*] member of the executive council [9][(other than the Commander-in-Chief)] shall hold and execute the office of Governor-General until the vacancy is filled in accordance with the provisions of this Act.

(*5*) Every vice-president or other member of council so acting as Governor-General, while so acting, shall have and may exercise all the rights and powers of the office of Governor-General and shall be entitled to receive the emoluments and advantages appertaining to the office, foregoing his salary and allowances as member of council for that period.

Temporary vacancy in office of governor.

91. (*1*) If a vacancy occurs in the office of governor when no [7][***] successor is on the spot to supply the vacancy, the vice-president, or, if he is absent, the senior member of the governor's executive council, or, if there is no council, the chief secretary to the local government, shall hold and execute the office of governor until a successor arrives, or until some other person on the spot is duly appointed thereto.

(*2*) Every such acting governor shall, while acting as such, be entitled to receive the emoluments and advantages appertaining to the office of governor, foregoing the salary and allowances appertaining to his office of member of council or secretary.

Temporary vacancy in office of member of an executive council.

92. (*1*) If a vacancy occurs in the office of [10][member] of the executive council of the Governor-General [(other than the Commander-in-Chief)], or a member of the executive council of a governor, and there is no [2][***] successor present on the spot, the Governor-General in Council, or governor in council, as the case may be, shall supply the vacancy by appointing a temporary member of council.

(*2*) Until a successor arrives the person so appointed shall hold and execute the office to which he has been appointed, and shall have and may exercise all the rights and powers thereof, and shall be entitled to receive the emoluments and advantages appertaining to the office, foregoing all emoluments advantages to which he was entitled at the time of his being appointed to that office.

(3) If [13][a member] of the executive council of the Governor-General [14][(other than the Commander-in-Chief)], or any member of the executive council of a governor is, by infirmity or otherwise, rendered incapable of acting or of attending to act as such, or is absent on leave, [15][or, special duty] [16][***] the Governor-General in Council or governor in council, as the case may be, shall appoint some person to be a temporary member of council.

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8. The words "ordinary" was omitted by Part II of *ibid.*
9. These words were inserted by *ibid.*
10. These words were substituted for the words "an ordinary member" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5 Ch. 101).
11. These words were inserted by *ibid.*
12. The words 'conditional or than" were omitted by Part III of *ibid.*
13. These words were substituted for the words "any ordinary member" by Part II of *ibid.*
14. These were inserted by ibid.
15. These words were inserted by Sch. I of the Government of India (Amendment) Act. 1916 (6 & 7 Geo. 5, Ch. 37).
16. Certain words were omitted by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

(*4*) Until the return to duty of the member so incapable or absent, the person [17][**] temporarily appointed shall hold and execute the office to which he has been appointed, and shall have and may exercise all the rights and powers thereof, and shall be entitled to receive half the salary of the member of council whose place he fills, and also half the salary of any other office which he may hold, if he hold any such office, the remaining half of such last-named salary being at the disposal of the Governor-General in Council or governor in council as the case may be.

(*5*) Provided as follows:—

(*a*) no person may be appointed a temporary member of council who might not have been appointed [18][***] to fill the vacancy supplied by the temporary appointment; and

(*b*) if the Secretary of State informs the Governor-General that it is not the intention of His Majesty to fill a vacancy in the Governor-General's executive council, no temporary appointment may be made under this section to fill the vacancy, and if any such temporary appointment has been made before the date of the receipt of the information by the Governor-General, the tenure of the person temporarily appointed shall cease from that date.

Vacancies in legislative councils.

93. '(*1*) A nominated or elected member of [19][either chamber of the Indian legislature] or of a local legislative council may resign his office to the Governor-General or to the governor, lieutenant-governor or chief commissioner, as the case may be, and on the acceptance of the resignation the office shall become vacant.

(*2*) If for a period of two consecutive months any such member is absent from India or unable to attend to the duties of his office, the Governor-General, governor, lieutenant-governor or chief commissioner, as the case may be, may, by notification published in the government gazette, declare that the seat in council of that member has become vacant.

Leave.

94. Subject to the provisions of this Act, the Secretary of State in council may, with the concurrence of a majority of votes at a meeting of the Council of India, make rules as to the absence on leave [20][or special duty] of persons in the service of the Crown in India, and the terms as to continuance, variation or cessation of pay, salary and allowances on which any such [21][absence may be permitted].

Power to make rules as to Indian military appointments.

95. '(*1*) The Secretary of State in Council, with the concurrence of a majority of votes at a meeting of the Council of India, may make rules for distributing between the several authorities in India the power of making appointments to and promotions in [21][military] officers and servants suspended or removed by any of those authorities.

17. The words "conditionally or" were omitted by *ibid.*
18. The words 'under this Act" were omitted by Part II of *ibid.*
19. These words were substituted for the words "the Indian Legislative Council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).
20. These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).
21. These words were substituted for the words "leave may be granted" by *ibid.*

(2) Subject to such rules, all appointments to [22][military] offices and commands in India, and all [22][military] promotions, which by law, or under any regulations, usage or custom, are, at the commencement of this Act, made by any authority in India, shall, subject to the qualifications, conditions, and restrictions, then affecting such appointments and promotions, respectively, continue to be made in India by the like authority.

No disabilities in respect of religion, colour or place of birth.

96. No native of British India, nor any subject of His Majesty resident therein, shall, by reason only of his religion, place of birth, descent, colour, or any of them be disabled from holding any office under the Crown in India.

Qualification or rulers and subjects of certain states for office.

[23][**96A.** Notwithstanding anything in any other enactment, the Governor-General in Council, with the approval of the Secretary of State in Council, may, by notification, declare that subject to any conditions or restrictions prescribed in the notification, any named ruler or subject of any state in India shall be eligible for appointment to any civil or military office under the Crown to which a native of British India may be appointed, or any, named subject of any state or any named member of independent race or tribe, in territory adjacent to India, shall be eligible for appointment to any such military office.]

PART VIIA.

The Civil Services in India.

The civil services in India.

[24][**96B.** (1) Subject to the provisions of this Act and of rules made thereunder, every person in the civil service of the Crown in India holds office during His Majesty's pleasure, and may be employed in any manner required by a proper authority within the scope of his duty but no person in that sevice may be dismissed by any authority subordinate to that by which he was appointed, and the Secretary of State in Council may (except so far as he may provide by rules to the contrary) reinstate any person in that service who has been dismissed.

If any such person appointed by the Secretary of State in Council thinks himself wronged by an order of an official superior in a governor's province, and on due application made to that superior does not receive the redress to which he may consider himself entitled, be may, without prejudice to any other right of redress, complain to the governor of the province in order to obtain justice, and the governor is hereby directed to examine such complaint and require such action to be taken thereon as may appear to him to be just and equitable.

(2) The Secretary of State in Council may make rules for regulating the classification of the civil services in India, the methods of their recruitment, their conditions of services, pay and allowances, and discipline and conduct. Such rules may, to such extent and in respect of such matters as may be prescribed, delegate the power of making rules to the Governor-General in Council or to local governments, or authorise the Indian legislature or local legislatures to make laws regulating the public services:

22. This word was inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5 Ch. 101).
23. Section 96A was inserted by section 3 of the Government of India (Amendment) Act 1916 (6 & 7 Geo. 5, Ch Ch. 37).
24. Section 96B was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

Provided that every person appointed before the commencement of the Government of India Act, 1919, by the Secretary of State in Council to the civil service of the Crown in India shall retain all his existing or accruing rights, or shall receive such compensation, for the loss of any of them as the Secretary of State in Council may consider just and equitable.

(*3*) The right to pensions and the scale and conditions of pensions of all persons in the civil service of the Crown in India appointed by the Secretary of State in Council shall be regulated in accordance with the rules in force at the time of the passing of the Government of India Act, 1919. Any such rules may be varied or added to by the Secretary of State in Council and shall have effect as so varied or added to, but any such variation or addition shall not adversely acect the pension of any member of of the service appointed before the date thereof.

Nothing in this section or in any rule thereunder shall prejudice the rights to which any person may, or may have, become entitled under the provisions in relation to pensions contained in the East India Annuity Funds Act, 1874.

(*4*) For the removal of doubts it is hereby declared that all rules or other provisions in operation at the time of the passing of the Government of India Act, 1919, whether made by the Secretary of State in Council or by any other authority, relating to the civil service of the Crown in India, were duly made in accordance with the powers in that behalf, and are confirmed, but any such rules or provisions may be revoked, varied or added to by rules or laws made under this section.]

Public service commission.

[25][**96C.** (*1*) There shall be established in India a public service commission, consisting of not more thtn five members, of whom one shall be chairman, appointed by the Secretary of State in Council. Each member shall hold office for five years, and may be re-appointed. No member shall be removed before the expiry of his term of office, except by order of the Secretary of State in Council. The qualifications for appointment, and the pay and pension (if any) attaching to the office of chairman and member, shall be prescribed by rules made by the Secretary of State in Council.

(*2*) The public service commission shall discharge, in regard to recruitment and control of the public services in India, such functions as may be assigned thereto by rules made by the Secretary of State in Council].

Financial control.

[1][**96D.** (*1*) An auditor-general in India shall be appointed by the Secretary of State in Council, and shall hold office during His Majesty's pleasure. The Secretary of State in Council shall, by rules, make provision for his pay, powers, duties, and conditions of employment, or for the discharge of his duties in the case of a temporary vacancy or absence from duty.

(*2*) Subject to any rules made by the Secretary of State in Council, no office cay be added to or withdrawn from the public service, and the emoluments of no post may be varied, except after consultation with such finance authority as may be designated in the rules, being an authority of the province or of the Government of India, according as the post is or is not under the control of a local government.]

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25. Section 96C was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

1. Sections 96D and 96E were inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[1][**96E.** Rules made under this Part of this Act shall not be made except with the concurrence of the majority of votes at a meeting of the Council of India.]

Rules under Part VIIA.

PART VIII.

THE INDIAN CIVIL SERCICE.

97. (*1*) The Secretary of State in Council may, with the advice and assistance of the Civil Service Commissioners, make rules for the examination, under the superintendence of those Commissioners, of British subjects [2][and of persons in respect of whom a declaration has been made under [3]section 96A of this Act] who are desirous of becoming candidates for appointment to the Indian Civil Service.

Rules for admission to the Indian Civil Service.

(*2*) The rules shall prescribe the age and qualifications of the candidates, and the subjects of examination.

[4][(*2a*) The admission to the Indian Civil Service of a British subject who or whose father or mother was not born within His Majesty's dominions shall be subject to such restrictions as the Secretary of State in Council, with the advice and assistance of the Civil Service Commissioners, may think fit to prescribe, and all such restrictions shall be included in the rules.]

(*3*) All rules made in pursuance of this section shall be laid before Parliament within fourteen days after the making thereof, or, if Parliament is not then sitting, then within fourteen days after the next meeting of Parliament.

(*4*) The candidates certified to be entitled under the rules shall be recommended for appointment according to the order of their proficiency as shown by their examination.

(*5*) Such persons only as are so certified may be appointed or admitted to the Indian Civil Service by the Secretary of State in Council.

[5][(*6*) Notwithstanding anything in this section, the Secretary of State may make appointments to the Indian Civil Service of persons domiciled in India, in accordance with such rules as may be prescribed by the Secretary of State in Council with the concurrence of the majority of votes in Council with the concurrence of the majority of votes at a meeting of the Council of India.

Any rules made under this sub-section shall not have force until they have been laid for thirty days before both Houses of Parliament.]

98. Subject to the provisions of this Act, all vacancies happening in any of the offices specified or referred to in the Third Schedule to this Act, and all such offices which may be created hereafter, shall be filled from amongst the members of the Indian Civil Service.

Offices reserved to the Indian Civil Service.

2. These words were inserted by section 4 of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).
3. These words were substituted for "the last foregoing section" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101.)
4. This sub-section was inserted by section 4 of the Government of India (Amendment) Act 1916 (6 & 7 Geo. 5, Ch. 37).
5. This sub-section was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

Power to appoint certain persons to reserved offices.

99. (*1*) The authorities in India, by whom appointments are made to offices in the Indian Civil Service, may appoint to any such office any person of proved merit and ability domiciled in British India and born [6][***] of parents habitually resident in India and not established there for temporary purposes only, although the person so appointed has not been admitted to that service in accordance with the foregoing provisions of this Act.

(*2*) Every such appointment shall be made subject to such rules as may be prescribed by the Governor-General in Council and sanctioned by the Secretary of State in Council with the concurrence of a majority of votes at a meeting of the Council of India.

(*3*) The Governor-General in Council may, by resolution, define and limit the qualification of persons who may be appointed under this section, but every resolution made for that purpose shall be subject to the sanction of the Secretary of State in Council, and shall not have force until it has been laid for thirty days before both Houses of Parliament.

Power to make provisional appointments in certain cases.

100. (*1*) Where it appears to the authority in India by whom an appointment is to be made to any office reserved to members of the Indian Civil Service that a person not being a member of that service ought, under the special circumstances of the case, to be appointed thereto, the authority may appoint thereto any person who has resided for at least seven years in India and who has, before his appointment, fulfilled all the tests (if any) which would be imposed in the like case on a member of that service.

(*2*) Every such appointment shall be provincial only, and shall forthwith be reported to the Secretary of State, with the special reasons for making it; and, unless the Secretary of State in Council approves the appointment, with the concurrence of a majority of votes at a meeting of the Council of India, and within twelve months from the date of the appointment intimates such approval to the authority by whom the appointment was made, the appointment shall be cancelled.

PART IX.

THE INDIAN HIGH COURTS.

Constitution.

Constitution of high courts.

101. (*1*) The high courts referred to in this Act are the high courts of judicature for the time being established in British India by letters patent.

(*2*) Each high court shall consist of a chief justice and as many other judges as His Majesty may think fit to appoint:

Provided as follows:—

(*i*) the Governor-General in Council may appoint persons to act as additional judges of any high court for such period, not exceeding two years, as may be required; and the judges so appointed shall, whilst so acting, have all the powers of a judge of the high court appointed by His Majesty under this Act;

6. The words "in British India" were repealed by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

(ii) the maximum number of judges of a high court, including the chief justice and additional judges, shall be twenty.

(3) A judge of high court must be—

(a) a barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland, of not less than five years standing; or

(b) a member of the Indian Civil Service of not less than ten years' standing, and having for at least three years served as, or exercised the powers of, a district judge; or

(c) a person having held judicial office, not inferior to that of a subordinate judge or a judge of a small cause court, for a period of not less than five years; or

(d) a person having been a pleader of a high court for a period of not less than ten years.

(4) Provided that not less than one-third of the judges of a high court, including the chief justice, but excluding additional judges, must be such barristers or advocates as aforesaid, and that not less than one-third must be members of the Indian Civil Service.

(5) The high court for the North-Western Provinces may be styled the high court of judicature at Allahabad, and the court at Fort William in Bengal is in this Act referred to as the high court at Calcutta.

Tenure of office of judges of high courts.

102. (1) Every judge of a high court shall hold his office during His Majesty's pleasure.

(2) Any such judge may resign his office, in the case of the high court at Calcutta, to the Governor-General in Council, and in other cases to the local government.

Precedence of judges of high courts.

103. (1) The chief justice of a high court shall have rank and precedence before the other judges of the same court.

(2) All the other judges of a high court shall have rank and precedence according to the seniority of their appointments, unless otherwise provided in their patents.

Salaries, etc., of judges of high courts.

104. (1) The Secretary of State in Council may fix the salaries, allowances, furloughs retiring pensions and (where necessary) expenses for equipment and voyage of the chief justices and other judges of the several high courts, and may alter them, but any such alteration shall not affect the salary of any judge appointed before the date thereof.

(2) The remuneration fixed for a judge under this section shall commence on his taking upon himself the execution of his office, and shall be the whole profit or advantage which he shall enjoy from his office during his continuance therein.

(3) If a judge of a high court dies during his voyage to India, or within six months after his arrival there, for the purpose of taking upon himself the execution of his office, the Secretary of State shall pay to his legal personal representatives, out of the revenues of India, such a sum of money as will, with the amount received by or due to him at the time of his death on account of salary, make up the amount of one year's salary.

(4) If a judge of a high court dies while in possession of his office and after the expiration of six months from his arrival in India for the purpose of taking upon himself the execution of his office, the Secretary

of State shall pay to his legal personal representatives, out of the revenues of India, over and above the sum due to him at the time of his death, a sum equal to six months' salary.

Provision for vacancy in the office of chief justice or other judge.

105. (*1*) On the occurrence of a vacancy in the office of chief justice of a high court, and during any absence of such a chief justice the Governor-General in Council in the case of the high court at Calcutta, and the local government in other cases, shall appoint one of the other judges of the same high court to perform the duties of chief justice of the court until some person has been appointed by His Majesty to the office of chief justice of the court, and has entered on the discharge of the duties of that office, or until the chief justice has returned from his absence as the case requires.

(*2*) On the occurrence of a vacancy in the office of any other judge of a high court, and during any absence of any such judge or on the appointment of any such judge to act as chief justice, the Governor-General in Council in the case of the high court at Calcutta, and the local government in other cases, may appoint a person, with such qualifications as are required in persons to be appointed to the high court, to as a judge of the court; and the person so appointed may sit and perform the duties of a judge of the court until some person has been appointed by His Majesty to the office of judge of the court, and has entered on the discharge of the duties of the office, or until the absent judge has returned from his absence, or until the Governor-General in Council or the local government, as the case may be, sees cause to cancel the appointment of the acting judge.

Jurisdiction.

Jurisdiction of high courts.

106. (*1*) The several high courts are courts of record and have such jurisdiction, original and appellate, including admiralty jurisdiction, in respect of offences committed on the high seas, and all such powers and authority over or in relation to the administration of justice, including power to appoint clerks and other ministerial officers of the court, and power to make rules for regulating the practice of the court, as are vested in them by letters patent, and, subject to the provisions of any such letters patent, all such jurisdictions, powers and authority as are vested in those courts respectively at the commencement of this Act.

[7][(*1a*) The letters patent establishing or vesting jurisdiction, powers or authority in a high court may be amended from time to time by His Majesty by further letters patent.]

(*2*) The high courts have not and may not exercise any *original* jurisdiction in any matter concerning the revenue, or concerning any act ordered or done in the collection thereof according to the usage and practice of the country or the law for the time being in force.

Powers of high court with respect to subordinate courts.

107. Each of the high courts has superintendence over all courts for the time being subject to its appellate jurisdiction, and may do any of the following things, that is to say:—

(*a*) call for returns;

(*b*) direct the transfer of any suit or appeal from any such court any other court of equal or superior jurisdiction;

7. This sub-section was inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

(*c*) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts;

(*d*) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts; and

(*e*) settle tables of fees to be allowed to the sheriff, attorneys and all clerks and officers of courts:

Provided that such rules, forms and tables shall not be inconsistent with the provisions of any [8][law] for the time being in force, and shall require the previous approval, in the case of the high court at Calcutta, of the Governor-General in Council, and in other cases of the local government.

Exercise of jurisdiction by single judges or division courts.

108. (*1*) Each high court may by its own rules provide, as it thinks fit, for the exercise, by one or more judges, or by division courts constituted by two or more judges, of the high court, of the original and appellate jurisdiction vested in the court.

(*2*) The chief justice of each high court shall determine what judge in each case is to sit alone, and what judges of the court, whether with or without the chief justice, are to constitute the several division courts.

Power for Governor-General in Council to alter local limits of jurisdiction of high courts.

109. (*1*) The Governor-General in Council may by order, transfer any territory or place from the jurisdiction of one to the jurisdiction of any other of the high courts, and authorise any high court to exercise all or any portion of its jurisdiction in any part of British India not included within the limits for which the high court was established, and also to exercise to any such jurisdiction in respect of [9][any British subject for the time being within] any part of India outside British India.

(*2*) The Governor-General in Council shall transmit to the Secretary of State an authentic copy of every order made under this section.

(*3*) His Majesty may signify, through the Secretary of State in Council, his disallowance of any such order, and such disallowance shall make void and annul the order as from the day on which the Governor-General notifies that he has received intimation of the disallowance but no act done by any high court before such notification shall be deemed invalid by reason only of such disallowance.

Exemption from jurisdiction of high courts.

110. (*1*) The Governor-General, each governor, [10][lieutenant-governor and chief commissioner] and each of the members of [11][the executive council of the Governor-General or of a governor or lieutenant-governor] [[12]and a minister appointed under this Act], shall not—

(*a*) be subject to the original jurisdiction of any high court by reason of anything counselled, ordered or done by any of them in his public capacity only; nor

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8. This word was substituted for the word "Act" by *ibid.*
9. These words were substituted for the words "Christian subjects of His Majesty resident in" by Sch. I of the Government of India (Amendment) Act, (6 & 7 Geo. 5, Ch. 37).
10. These words were inserted by *ibid.*
11. These words were substituted for the words "their respective executive councils" by *ibid.*
12. These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101),

(*b*) be liable to be arrested or imprisoned in any suit or proceeding in any high court acting in the exercise of its original jurisdiction; or

(*c*) be subject to the original criminal jurisdiction of any high court in respect of any offence not being treason or felony.

(*2*) The exemption under this section from liability to arrest and imprisonment shall extend also to the chief justice and other judges of the several high courts.

Written order by Governor-General justification for act in any court in India.

111. The order in writing of the Governor-General in Council, for any act shall, in any proceeding, civil or criminal, in any high court acting in the exercise of its original jurisdiction, be a full justification of the act, except so far as the order extends to any European British subject, but nothing in this section shall exempt the Governor-General, or any member of his executive council, or any person acting under their orders, from any proceedings in respect of any such act before any competent court in England.

Law to be administered.

Law to be administered in cases of inheritance and succession.

112. The high courts at Calcutta, Madras and Bombay, in the exercise of their original jurisdiction in suits against inhabitants of Calcutta, Madras or Bombay, as the case may be, shall, in matters of inheritance and succession to lands, rents and goods, and in matters of contract and dealing between party and party, when both parties are subject to the same personal law or custom having the force of law, decide according to that personal law or custom, and when the parties are subject to different personal laws or customs having the force of law, decide according to the law or custom to which the defendant is subject.

Additional High Courts.

Power to establish additional high courts.

113. His Majesty may, if he sees fit, by letters patent, establish a high court of judicature in any territory in British India, whether or not included within the limits of the local jurisdiction of another high court, and confer on any high court so established any such jurisdiction, powers and authority as are vested in or may be conferred on any high court existing at the commencement of this Act; and, where a high court is so established in any area included within the limits of the local jurisdiction of another high court, His Majesty may, by letters patent, alter those limits, and make such incidental, consequential and supplemental provisions as may appear to be necessary by reason of the alteration.

Advocate-General.

Appointment and powers of advocate-general.

114. (*1*) His Majesty may, by warrant under His Roval Sign Manual, appoint an advocate-general for each of the presidencies of Bengal, Madras and Bombay.

(*2*) The advocate-general for each of those presidencies may take on behalf of His Majesty such proceedings as may be taken by His Majesty's Attorney-General in England.

[13][(3) On the occurrence of a vacancy in the office of advocate-general

13. This sub-section was added by Sch. I of the Government of India (Amendment) Act 1916 (6 & 7 Geo. 5, Ch. 37).

or during any absence or deputation of an advocate-general the Governor-General in Council in the case of Bengal, and the local government in other cases, may appoint a person to act as advocate-general; and the person so appointed may exercise powers of an advocate-general until some person has been appointed by His Majesty to the office and has entered on the discharge of his duties, or until the advocate-general has returned from his absence or deputation, as the case may be, or until the Governor-General in Council or the local government, as the case may be, cancels the acting appointment.]

PART X.

ECCLESIASTICAL ESTABLISHMENT.

Jurisdiction of Indian bishops.

115. (*1*) The bishops of Calcutta, Madras and Bombay have and may exercise within their respective dioceses such episcopal functions, and such ecclesiastical jurisdiction for the superintendence and good government of the ministers of the Church of England therein, as His Majesty may, by letters patent, direct. [14][His Majesty may also by letters patent make such provision as may be deemed expedient for the exercise of the episcopal functions and ecclesiastical jurisdiction of the bishop during a vacancy of any of the said sees or the absence of the bishop thereof.]

(*2*) The Bishop of Calcutta is the Metropolitan Bishop in India, subject nevertheless to the general superintendence and revision of the Archbishop of Canterbury [1][and as metropolitan shall have, enjoy, and exercise such ecclesiastical jurisdiction and functions as His Majesty may by letters patent make such provision as may be deemed expedient for the exercise of such jurisdiction and functions during a vacancy of the See of Calcutta or the absence of the bishop.]

(*3*) Each of the bishops of Madras and Bombay is subject to the Bishop of Calcutta as such Metropolitan, and must at the time of his appointment to his bishopric, or at the time of his consecration as bishop, take an oath of obedience to the Bishop of Calcutta, in such manner as His Majesty, by letters patent, may be pleased to direct.

(*4*) His Majesty may, by letters patent, vary the limits of the dioceses of Calcutta, Madras and Bombay.

(*5*) Nothing in this Act or in any such letters patent as aforesaid shall prevent any person who is or has been bishop of any diocese in India from performing episcopal functions, not extending to the exercise of jurisdiction, in any diocese or reputed diocese at the request of the bishop thereof.

116. [*Power to admit to holy orders.*] Rep. by Sch. II of 6 & 7 Geo. 5, Ch. 37.

Consecretion of person resident in India appointed to bishopric.

117. If any person under the degree of bishop is appointed to the bishopric of Calcutta, Madras or Bombay, being at the time of his appointment resident in India, the Archbishop of Canterbury, if so required to do by His Majesty by letters patent, may issue a commission under his hand and seal, directed to the two remaining bishops, authorising and charging them to perform all requisite ceremonies for the consecration of the person so to be appointed.

14. These words were inserted by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

Salaries and allowances of bishops and archdeacons.

118. (*1*) The bishops [15][**] of Calcutta, Madras and Bombay are appointed by His Majesty by letters patent [16][and the archdeacons of these dioceses by their respective diocesan bishops, and there may be paid to them, or to any of them, out of the revenues of India such salaries and allowances as may be fixed by the Secretary of State in Council; but any power of alteration under this enactment shall not be exercised so as to impose any additional charge on the revenues of India.

(*2*) The remuneration fixed for a bishop or archdeacon under this section shall commence on his taking upon himself the execution of his office, and be the whole profit or advantage which he shall enjoy from his office during his continuance therein, and continue so long as he exercises the functions of his office.

(*3*) There shall be paid out of the revenues of India the expenses of visitations of the said bishops, but no greater sum may be issued on account of those expenses than is allowed by the Secretary of State in Council.

Payments to representatives of bishops.

119. (*1*) If the Bishop of Calcutta dies during his voyage to India for the purpose of taking upon himself the execution of his office, or if the Bishop of Calcutta, Madras or Bombay dies within six months after his arrival there for that purpose, the Secretary of State shall pay to his legal personal representatives, out of the revenues of India such a sum of money as will, with the amount received by or due to him at the time of his death on account of salary, make up the amount of one year's salary.

(*2*) If the Bishop of Calcutta, Madras or Bombay dies while in possession of his office and after the expiration of six months from his arrival in India for the purpose of taking upon himself the execution of his office, the Secretary of State shall pay to his legal personal representatives, out of the revenues of India, over and above the sum due to him at the time of his death, a sum equal to six months' salary.

Pensions to bishops.

120. His Majesty may, by warrant under the Royal Sign Manual, countersigned by the [17][Secretary of State], grant, out of the revenues of India, to any Bishop of Calcutta a pension not exceeding fifteen hundren pounds per annum if he has resided in India as Bishop of Calcutta, Madras or Bombay or archdeacon for ten years, or ont thousand pounds per annum if he has resided in India as Bishop of Calcutta [18][Madras or Bombay] for seven years, or seven hundred and fiftv pounds per annum if he has resided in India as Bishop of Calcutta [18][Madras or Bombay] for five years, or to any Bishop of Madras or Bombay a pension not exceeding eight hundred pounds per annum [19][***] if he has resided in [20][*] India as such bishop for fifteen years.

15. The words "and archdeacons" were omitted by Part III of Sch. II of the Government of India Act 1919 (9 & 10 Geo. 5, Ch. 101).
16. These words were inserted by *ibid.*
17. These words were substituted for the words "Chancellor of the Exchequer" by Sch. II of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).
18 These words were inserted by Ch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).
19. The words "to be paid quarterly" were repealed by *ibid.*
20. The word "British" was repealed by *ibid.*

Furlough rules.

121. His Majesty may make such rules as to the leave of absence of the Bishops of Calcutta, Madras and Bombay on furlough or medical certifcate as seem to His Majesty expedient.

Establishment of chaplains of Church of Scotland.

122. (*1*) Two members of the establishment of Chaplains maintained in each of the presidencies of Bengal, Madras and Bombay must always be ministers of the Church of Scotland, and shall be entitled to have, out of the revenues of India, such salary as is from time to time allotted to the military chaplains in the several presidencies.

(*2*) The ministers so appointed chaplains must be ordained and inducted by the presbytery of Edinburgh according to the forms and solemnities used in the Church of Scotland and shall be subject to the spiritual and ecclesiastical jurisdiction in all things of the presbytery of Edinburgh, whose judgments shall be subject to dissent, protest and appeal to the Provincial Synod of Lothian and Tweeddale and to the General Assembly of the Church of Scotland.

Saving as to grants to Christians.

123. Nothing in this Act shall prevent the Governor-General in Council from granting with the sanction of the Secretary of State in Council, to any sect, persuasion or community of Christians, not being of the Church of England or Church of Scotland, such sums of money as may be expendient for the purpose of instruction or for the maintenance of places of worship.

PART XI.

OFFENCES, PROCEDURE AND PENALTIES.

Certain acts to be misdemeanours.

124. If any person holding office under the Crown in India does any of the following things, that is to say—

Oppression.

(*1*) if he oppresses any British subject within his jurisdiction or in the exercise of his authority; or

Wilful disobedience.

(*2*) if (except in case of necessity, the burden of proving which shall be on him) he wilfully disobeys, or wilfully omits, forbears or neglects to execute, any orders or instructions of the Secretary of State; or

Breach of duty.

(*3*) if he is guilty of any wilful breach of the trust and duty of his office; or

Trading.

(*4*) if, being the Governor-General, or a governor, lieutenant-governor or chief commissioner, or a member of the Executive Council of the Governor-General or of a governor or lieutenant-governor [2][or being a minister appointed under this Act] or being a person employed or concerned in the collection of revenue or the administration of justice, he is concerned in, or has any dealings or transactions by way of trade or business in any part of India, for the benefit either of himself or of any other person, otherwise than as a shareholder in any joint-stock company or trading corporation; or

21. These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101.)

(*5*) if he demands, accepts or receives, by himself or another, in the discharge of his office, any gift, gratuity or reward, pecuniary or otherwise, or any promise of the same, except in accordance with such rules as may be made by the Secretary of State as to the receipt of presents, and except in the case of fees paid or payable to barristers, physicians, surgeons and chaplains in the way of their respective professions,

Receiving presents.

he shall be guilty of a misdemeanour; and if he is convicted of having demanded, accepted or received any such gift, gratuity or reward, the same, or the full value thereof shall be forfeited to the Crown, and the court may order that the gift, gratuity or reward, or any part thereof, be restored to the person who gave it, or be given to the prosecutor or informer and that the whole or any part of any fine imposed on the offender be paid or given to the prosecutor or informer, as the court may direct:

[22][Provided that notwithstanding anything in this Act, if any member of any local government was at the time of his appointment concerned or engaged in any trade or business, he may, during the term of his office with the sanction in writing of the Governor-General, or, in the case of ministers, of the governor of the province, and in any case subject to such general conditions and restrictions as the Governor-General in Council may prescribe, retain his concern or interest in that trade or business, but shall not, during that term, take part in the direction or management or that trade of business.]

125. (*1*) If any European British subject, without the previous consent in writing of the Secretary of State in Council or of the Governor-General in Council or of a local government, by himself or another,—

Loans to princes or chiefs.

(*a*) lends any money or other valuable thing to any prince or chief in India; or

(*b*) is concerned in lending money to, or raising or procuring money for any such prince or chief, or becomes security for the repayment of any such money; or

(*c*) lends any money or other valuable thing to any other person for the purpose of being lent to any such prince or chief; or

(*d*) takes, holds, or is concerned in any bond, note or other security granted by any such prince or chief for the repayment of any loan or money hereinbefore referred to.

he shall be guilty of a misdemeanour.

(*2*) Every bond, note or security for money, of what kind or nature soever, taken, held or enjoyed, either directly or indirectly, for the use and benefit of any European British subject, contrary to the intent of this section, shall be void.

126. (*1*) If any person carries on, mediately or immediately, any illicit correspondence, dangerous to the peace or safety of any part of British India, with any prince, chief, land-holder or other person having authority in India, or with the commander, governor, or president of any foreign European settlement in India, or any correspondence, contrary to the rules and orders of the Secretary of State or of the Governor-General in Council or a governor in council, he shall be guilty of a misdemeanour; and the Governor-General or governor may issue a warrant for securing and

Carrying on dangerous correspondence.

22. This proviso was inserted by Part. I of *ibid.*

detaining in custody any person suspected of carrying on any such correspondence.

(2) If on examination taken on oath in writing of any credible witness before the Governor-General in Council or the governor in council, there appear reasonable grounds for the charge, the Governor-General or governor may commit the person suspected or accused to safe custody, and shall within a reasonable time, not exceeding five days, cause to be delivered to him a copy of the charge on which it is committed.

(3) The person charged may deliver his defence in writing, with a list of such witnesses as he may desire to be examined in support thereof.

(4) The witnesses in support of the charge and of the defence shall be examined and cross-examined on oath in the presence of the person charged, and their depositions and examination shall be taken down in writing.

(5) If, notwithstanding the defence, there appear to the Governor-General in Council or governor in council reasonable grounds for the charge and for continuing the commitment, the person charged shall remain in custody until he is brought to trial in India or sent to England for trial.

(6) All such examinations and proceedings, or attested copies thereof under the seal of the high court, shall be sent to the Secretary of State as soon as may be, in order to their being produced in evidence on the trial of the person charged in the event of his being sent for trial to England.

(7) If any such person is to be sent to England, the Governor-General or governor, as the case may be, shall cause him to be so sent at the first convenient opportunity, unless he is disabled by illness from undertaking the voyage in which case he shall be so sent as soon as his state of health will safely admit thereof.

(8) The examinations and proceedings transmitted in pursuance of this section shall be received as evidence in all courts of law, subject to any just exceptions as to the competency of the witnesses.

Prosecution of offences in England.

127. (1) If any person holding office under the Crown in India commits any offence under this Act, or any offence against any person within his jurisdiction or subject to his authority, the offence may, without prejudice to any other jurisdiction, be inquired of, heard, tried and determined before His Majesty's High Court of Justice, and be dealt with as if committed in the country of Middlesex.

(2) Every British subject shall be amenable to all courts of justice in the United Kingdom, of competent jurisdiction to try offences committed in India, for any offence committed within India and outside British India, as if the offence had been committed within British India.

Limitation for prosecutions in British India.

128. Every prosecution before a high court in British India in respect of any offence referred to in the last foregoing section must be commenced within six years after the commission of the offence.

Penalties.

129. If any person commits any offence referred to in this Act he shall be liable to such fine or imprisonment or both as the court thinks fit, and shall be liable, at the discretion of the court, to be adjudged to be incapable of serving the Crown in India in any office, civil or military; and, if he is convicted in British India by a high court, the court may order that he be sent to Great Britain.

PART XII.

SUPPLEMENTAL.

Provisions as to rules.

[23][**129A.** (*1*) Where any matter is required to be prescribed or regulated by rules under this Act and no special provision is made as to the authority by whom the rules are to be made, the rules shall be made by the Governor-General in Council, with the sanction of the Secretary of State in Council, and shall not be subject to repeal or alteration by the Indian legislature or by any local legislature.

(*2*) Any rules made under this Act may be so framed as to make different provision for different provinces.

(*3*) Any rules to which sub-section (*1*) of this section applies shall be laid before both Houses of Parliament as soon as may be after they are made, and if an address is presented to His Majesty by either House of Parliament within the next thirty days on which that House has sat after the rules are laid before it praying that the rules or any of them may be annulled, His Majesty in Council may annul the rules or any of them, and those rules shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder:

Provided that the Secretary of State may direct that any rules to which this section applies shall be laid in draft before both Houses of Parliament, and in such case the rules shall not be made unless both Houses by resolution approve the draft either without modification or addition, or with modifications and additions to which both Houses agree, but upon such approval being given, the rules may be made in the form in which they have been approved, and such rules on being so made shall be of full force and effect, and shall not require to be further laid before Parliament.]

Repeal.

130. The Acts specified in the Fourth Schedule to this Act are hereby repealed, to the extent mentioned in the third column of that Schedule:

provided that this repeal shall not affect—

(*a*) the validity of any law, charter, letters patent, Order in Council, warrant, proclamation, notification, rule, resolution, order, regulation, direction or contract made, or form prescribed, or table settled under any enactment hereby repealed and in force at the commencement of this Act, or

(*b*) the validity of any appointment, or any grant or appropriation of money or property made under any enactment hereby repealed, or

(*c*) the tenure of office, conditions of service, terms of remuneration or right to pension of any officer appointed before the commencement of this Act.

[1][Any reference in any enactment, whether an Act of Parliament or made by any authority in British India, or in any rules, regulations, or orders made under any such enactment, or in any letters patent or other document, to any enactment repealed by this Act, shall for all purposes be constructed as references to this Act, or to the corresponding provision thereof.]

[24][Any reference in any enactment in force in India, whether an Act of Parliament or made by any authority in British India, or in any rules,

23. Section 129A was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

24. These paragraph were inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 7, Ch. 101).

regulations, or orders made under any such enactment, or in any letters patent or other document, to any Indian legislative authority, shall for all purposes be construed as references to the corresponding authority constituted by this Act.]

Savings.

Saving as to certain rights and powers.

131. (*1*) Nothing in this Act shall derogate from any rights vested in His Majesty, or any powers of the Secretary of State in Council, in relation to the Government of India.

(*2*) Nothing in this Act shall affect the power of Parliament to control the proceedings of the Governor-General in Council, or to repeal or alter any law made by any authority in British India, or to legislate for British India and the inhabitants thereof.

(*3*) Nothing in this Act shall affect the power of the [2][Indian legislature] to repeal or alter any of the provisions mentioned in the Fifth Schedule to this Act, or the validity of any previous exercise of this power.

Treaties, contracts and liabilities of East India Company.

132. All treaties made by the East India Company, so far as they are in force at the commencement of this Act, are binding on His Majesty, and all contracts made and liabilities incurred by the East India Company may, so far as they are outstanding at the commencement of this Act, be enforced by and against the Secretary of State in Council.

Orders of East India Company.

133. All orders, regulations and directions lawfully made or given by the Court of Directors of the East India Company, or by the Commissioners for the Affairs of India, are so far as they are in force at the commencement of this Act, deemed to be orders, rules and directions made or given by the Secretary of State under this Act.

Definitions.

134. In this Act, unless the context otherwise requires,—

(1) "Governor-General in Council" means the Governor-General in Executive Council;

(2) "governor in council" means a governor in executive council;

(3) "lieutenant-governor in council" means a lieutenant-governor in executive council;

[1][(4) "local government" means, in the case of a governor's province, the governor in council or the governor acting with ministers (as the case may require), and, in the case of a province other than a governor's province, a lieutenant-governor in council, lieutenant-governor or chief commissioner;

"local legislative council" includes the legislative council in any governor's province, and any other legislative council constituted in accordance with this Act;

"local legislature" means in the case of a governor's province, the governor and the legislative council of the province, and, in the case of any other province, the lieutenant-governor or chief commissioner in legislative council];

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25. These words were substituted for the words "Governor-General in Legislative Council" by Part II of *ibid.*

1. Paragraph (4) was substituted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

(5) "office" includes place and employment;
(6) "province" includes a presidency; and
(7) references to rules made under this Act include rules or regulations made under any enactment hereby repealed, until they are altered under this Act.

.. [2][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 and 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.]

Short title.

[3][**135.** This Act may be cited as the Government of India Act.]

SCHEDULES.

[4]FIRST SCHEDULE.

Number of Members of Legislative Councils.

Legislative Council.	Number of Members.
Madras	118
Bombay	111
Bengal	125
United Provinces	118
Punjab	83
Bihar and Orissa	98
Central Provinces	70
Assam	53

[5]SECOND SCHEDULE.

Official Salaries, etc.

Officer.	Maximum Annual Salary.
Governor-General of India ..	Two hundred and fifty-six thousand rupees.
Governor of Bengal, Madras, Bombay, and the United Provinces.	One hundred and twenty-eight thousand rupees.
Commander-in-Chief of His Majesty's forces in India.	One hundred thousand rupees.
Governor of the Punjab, and Bihar and Orissa.	One hundred thousand rupees.
Governor of the Central Provinces ..	Seventy-two thousand rupees.
Governor of Assam	Sixty-six thousand rupees.
Lieutenant-governor	One hundred thousand rupees.
Member of the Governor-General's Executive Council (other than the Commander-in-Chief).	Eighty thousand rupees.
Member of the executive council of the governor of Bengal, Madras, Bombay, and the United Provinces.	Sixty-four thousand rupees.
Member of the executive council of the governor of the Punjab, and Bihar and Orissa.	Sixty thousand rupees.
Member of the executive council of the governor of the Central Provinces.	Forty-eight thousand rupees.
Member of the executive council of the governor of Assam.	Forty-two thousand rupees.

2. This paragraph was inserted by Part. I of *ibid.*
3. Sec. 135 was substituted by Part II of *ibid.*
4. This Schedule was substituted by Part I of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).
5. This Schedule was substituted by Part II of *ibid.*

[6]THIRD SCHEDULE.

Offices reserved to the Indian Civil Service.

A.—Offices under the Governor-General in Council.

1. The offices of secretary, joint secretary, and deputy secretary in every department except the Army, Marine, Education, Foreign, Political, and Public Works Departments: Provided that if the office of secretary or deputy secretary in the Legislative Department is filled from among the members of the Indian Civil Service, then the office of deputy secretary or secretary in that department as the case may be, need not be so filled.

2. Three offices of Accountants General.

B.—Offices in the provinces which were known in the year 1861 as "Regulation Provinces."

The following offices, namely:—

1. Member of the Board of Revenue.
2. Financial Commissioner.
3. Commissioner of Revenue.
4. Commissioner of Customs.
5. Opium Agent.
6. Secretary in every department except the Public Works or Marine Departments.
7. Secretary to the Board of Revenue.
8. District or sessions judge.
9. Additional district or sessions judge.
10. District magistrate.
11. Collector of Revenue or Chief Revenue Officer of a district.

FOURTH SCHEDULE.

Acts Repealed.

Session and Chapter.	Short Title.	Extent of Repeal.
10 Geo. 3, c. 47 ..	The East India Company Act, 1770.	The whole Act.
13 Geo. 3, c. 63 ..	The East India Company Act, 1772.	The whole Act, except sections forty-two, forty-three and forty-five.
21 Geo. 3, c. 70 ..	The East India Company Act, 1780.	The whole Act, except section eighteen.
26 Geo. 3, c. 57 ..	The East India Company Act, 1786.	Section thirty-eight.
33 Geo. 3, c. 52 ..	The East India Company Act, 1793.	The whole Act.
37 Geo. 3, c. 142 ..	The East India Act, 1797	The whole Act, except section twelve.
39 & 40 Geo. 3, c. 79 ..	The Government of India Act, 1800.	The whole Act.
53 Geo. 3, c. 155 ..	The East India Company Act, 1813.	The whole Act.
55 Geo. 3, c. 84 ..	The Indian Presidency-towns Act, 1815.	The whole Act.
4 Geo. 4, c. 71 ..	The Indian Bishops and Courts Act, 1823.	The whole Act.

6. This Schedule was substituted by II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

Session and Chapter.	Short Title.	Extent of Repeal.
6 Geo. 4, c. 85 ..	The Indian Salaries and Pensions Act, 1825.	The whole Act.
7 Geo. 4, c. 56 ..	The East India Officers' Act, 1826.	The whole Act.
3 & 4 Will. 4, c. 85 ..	The Government of India Act, 1833.	The whole Act, except section one hundred and twelve.
5 & 6 Will, 4, c. 52 ..	The India (North-West Provinces) Act, 1835.	The whole Act.
7 Will. 4 and 1 Vict., c. 47.	The India Officers' Salaries Act, 1837.	The whole Act.
5 & 6 Vict., c. 119 ..	The Indian Bishops Act, 1842.	The whole Act.
16 & 17 Vict., c. 95 ..	The Government of India Act, 1853.	The whole Act.
17 & 18 Vict., c. 77 ..	The Government of India Act, 1854.	The whole Act.
21 & 22 Vict., c. 106 ..	The Government of India Act, 1858.	The whole Act, except section four.
22 & 23 Vict., c. 41 ..	The Government of India Act, 1859.	The whole Act.
23 & 24 Vict., c. 100 ..	The European Forces (India) Act, 1860.	The whole Act.
23 & 24 Vict., c. 102 ..	The East India Stock Act, 1860.	The whole Act, except section six.
24 & 25 Vict., c. 54 ..	The Indian Civil Service Act, 1861.	The whole Act.
24 & 25 Vict., c. 67 ..	The Indian Councils Act, 1861.	The whole Act.
24 & 25 Vict., c. 104 ..	The Indian High Courts Act, 1861.	The whole Act.
28 & 29 Vict., c. 15 ..	The Indian High Courts Act, 1865.	The whole Act.
28 & 29 Vict., c. 17 ..	The Government of India Act, 1865.	The whole Act.
32 & 33 Vict., c. 97 ..	The Government of India Act, 1869.	The whole Act.
32 & 33 Vict., c. 98 ..	The Indian Councils Act, 1869.	The whole Act.
33 & 34 Vict., c. 3 ..	The Government of India Act, 1870.	The whole Act.
33 & 34 Vict., c. 59 ..	The East India Contracts Act, 1870.	The whole Act.
34 & 35 Vict., c. 34 ..	The Indian Councils Act, 1871.	The whole Act.
34 & 35 Vict., c. 62 ..	The Indian Bishops Act, 1871.	The whole Act.
37 & 38 Vict., c. 3 ..	The East India Loan Act, 1874.	Section fifteen.
37 & 38 Vict., c. 77 ..	The Colonial Clergy Act, 1874.	Section thirteen.
37 & 38 Vict., c. 91 ..	The Indian Councils Act, 1874.	The whole Act.
43 Vict., c. 3 ..	The Indian Salaries and Allowances Act, 1880.	The whole Act.
44 & 45 Vict., c. 63 ..	The India Office Auditor Act, 1881.	The whole Act.
47 & 48 Vict., c. 38 ..	The Indian Marine Service Act, 1884.	Sections two, three, four and five.
55 & 56 Vict., c. 14 ..	The Indian Councils Act, 1892.	The whole Act.

Session and Chapter.	Short Title.	Extent of Repeal.
3 Edw. 7, c. 11 ..	The Contracts (India Office) Act, 1903.	The whole Act.
4 Edw. 7, c. 26 ..	The Indian Councils Act, 1904.	The whole Act.
7 Edw. 7, c. 35 ..	The Council of India Act, 1907.	The whole Act.
9 Edw. 7, c. 4 ..	The Indian Councils Act, 1909.	The whole Act.
1 & 2 Geo. 5, c. 18 ..	The Indian High Courts Act, 1911.	The whole Act.
1 & 2 Geo. 5, c. 25 ..	The Government of India Act Amendment Act, 1911.	The whole Act.
2 & 3 Geo. 4, c. 6 ..	The Government of India Act, 1912.	The whole Act.

[7]FIFTH SCHEDULE.

Provisions of this Act which may be repealed or altered by the [8][Indian legislature].

Section.	Subject.
62	Power to extend limits of presidency-towns.
106	Jurisdiction, powers and authority of high courts.
108(*1*)	Exercise of jurisdiction of high court by single judges or division courts.
109	Power for Governor-General in Council to alter local limits of jurisdiction of high courts, etc.
110	Exemption from jurisdiction of high courts.
111	Written order by Governor-General in Council a justification for act in high court.
112	Law to be administered in cases of inheritance, succession, contract and dealing between party and party.

7. This Schedule was substituted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).
8. These words were substituted for the words "Governor-General) in Legislative Council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

Section.	Subject.
114(2)	Powers of advocate-general.
124(1)	Oppression.
124(4)—so far as it relates to persons employed or concerned in the collection of revenue or the administration of justice.	Trading.
124(5)—so far as it relates to persons other than the Governor-General, a governor or a member of the Executive Council of the Governor-General or of a governor.	Receiving presents.
125	Loans to princes or chiefs,
126	Carrying on dangerous correspondence.
128	Limitation for prosecutions in British India.
129	Penalties.

III. GOVERNMENT OF INDIA ACT, 1935

(26 Geo. V & 1 Edw. VIII Ch. 2.)

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[THE] GOVERNMENT OF INDIA ACT, 1935.

(26 Geo. V., & 1 Edw. VIII, c. 2).[1]

An Act to make further provision for the Government of India.

[*2nd August, 1935.*]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I[2]

INTRODUCTORY.

Short title.

1. This Act may be cited as the Government of India Act, 1935.

Government of India by the Crown.

[2a]**2.** (1) All rights, authority and jurisdiction heretofore belonging to His Majesty the King, Emperor of India, which appertain or are incidental to the Government of the territories in India for the time being vested in him, and all rights, authority and jurisdiction exercisable by him in or in relation to any other territories in India, are exercisable by His Majesty, except in so far as may be otherwise provided by or under this Act, or as may be otherwise directed by His Majesty:

Provided that any powers connected with the exercise of the functions of the Crown in its relations with Indian States shall in India, if not exercised by His Majesty, be exercised only by, or by persons acting under the authority of, His Majesty's Representative for the exercise of those functions of the Crown.

(2) The said rights, authority and jurisdiction shall include any rights, authority or jurisdiction heretofore exercisable in or in relation to any territoies in India by the Secretary of State, the Secretary of State in Council, the Governor-General, the Governor-General in Council, any Governor or any Local Government, whether by delegation from His Majesty or otherwise.

The Governor-General of India and His Majesty's Representative as regards relations with Indian States.

3. (1) The Governor-General of India is appointed by His Majesty by a Commission under the Royal Sign Manual[2b] [and has—

(*a*) all such powers and duties as are conferred or imposed on him by or under this Act; and

(*b*) such other powers of His Majesty, not being powers connected with the exercise of the functions of the Crown in its relations with Indian States, as His Majesty may be pleased to assign to him.

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1. This is the Government of India Act, 1935 (25 & 26 Geo. V, c. 42) as reprinted in pursuance of the Government of India (Reprinting) Act, 1935 (26 Geo. V & I Edw. VIII, c. 1).
2. Part I came into force on 1-4-1937 under the Government of India (Commencement and Transitory Provisions) Order, 1936, para 3.

2a. S 2 was omitted by the India (Provisional Constitution) Order, 1947.

2b. The words commencing from 'and' up to the end of the section were omitted by *ibid*.

(2) [3][His Majesty's Representative for the exercise of the functions of the Crown in its relations with Indian States] is appointed by His Majesty in like manner and has such powers and duties in connection with the exercise of those functions (not being powers or duties conferred or imposed by or under this Act on the Governor-General) as His Majesty may be pleased to assign to him.

(3) It shall be lawful for His Majesty to appoint one person to fill both the said offices].

The Commander-in-Chief in India.

[3a]**4.** There shall be a Commander-in-Chief of His Majesty's Forces in India appointed by Warrant under the Royal Sign Manual.

PART II.

THE FEDERAL EXECUTIVE.

CHAPTER I.

ESTABLISHMENT OF FEDERATION AND ACCESSION OF INDIAN STATES.

Proclamation of Federation of India.

[3b]**5.** (1) It shall be lawful for His Majesty, if an address in that behalf has been presented to him by each House of Parliament and if the condition hereinafter mentioned is satisfied, to declare by Proclamation that as from the day therein appointed there shall be united in a Federation under the Crown, by the name of the Federation of India,—

(*a*) the Provinces hereinafter called Governors' Provinces; and

(*b*) the Indian States which have acceded or may thereafter accede to the Federation;

and in the Federation so established there shall be included the Provinces hereinafter called Chief Commissioners' Provinces.

(2) The condition referred to is that States—

(*a*) the Rulers whereof will, in accordance with the provisions contained in Part II of the First Schedule to this Act, be entitled to choose not less than fifty-two members of the Council of State; and

(*b*) the aggregate population whereof, as ascertained in accordance with the said provisions, amounts to at least one-half of the total population of the States as so ascertained,

have acceded to the Federation.

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3. The office was known as "Crown Representative" with effect from 1-4-1937. *See* notification No. 144—Fed. dated the 4th March 1937, Gazette of India, Pt. I, p. 436.

3a. S 4 was omitted by the India (Provisional Constitution) Order, 1947.

3b S. 5 was substituted by *ibid.*, as follows—

"5. Establishment of the Dominion.—(1) The Dominion of India established by the Indian Independence Act, 1947, shall as from the fifteenth day of August, 1947, be a Union comprising—

(*a*) the Provinces hereinafter called Governors' Provinces,

(*b*) the Provinces hereinafter called Chief Commissioners' Provinces,

(*c*) the Indian States acceding to the Dominion in the manner hereinafter provided, and

(*d*) any other areas that may with the consent of the Dominion be included in the Dominion.

(2) The said Dominion of India is hereafter in this Act referred to as "the Dominion" and the said fifteenth day of August is hereafter in this Act referred to as "the date of the establishment of the Dominion."

[3c]6. (1) A State shall be deemed to have acceded to the Federation if His Majesty has signified his acceptance of an Instrument of Accession executed by the Ruler thereof, whereby the Ruler for himself, his heirs and successors—

Accession of Indian States.

(*a*) declares that he accedes to the Federation as established under this Act, with the intent that His Majesty the King, the Governor-General of India, the Federal Legislature, the Federal Court and any other Federal authority established for the purposes of the Federation shall, by virtue of his Instrument of Accession, but subject always to the terms thereof, and for the purposes only of the Federation, exercise in relation to his State such functions as may be vested in them by or under this Act; and

(*b*) assumes the obligation of ensuring that due effect is given within his State to the provisions of this Act so far as they are applicable therein by virtue of his Instrument of Accession:

Provided that an Instrument of Accession may be executed conditionally on the establishment of the Federation on or before a specified date, and in that case the State shall not be deemed to have acceded to the Federation is not established until after that date.

3c. S. 6 was substituted by *ibid.*, as follows—

"6. Accession of Indian States—(1) An Indian State shall be deemed to have acceded to the Dominion if the Governor-General has signified his acceptance of an Instrument of Accession executed by the Ruler thereof whereby the Ruler on behalf of the State:—

(*a*) declares that he accedes to the Dominion with the intent that the Governor-General, the Dominion Legislature, the Federal Court and any other Dominion authority established for the purposes of the Dominion shall, by virtue of his Instrument of Accession, but subject always to the terms thereof, and for the purposes only of the Dominion, exercise in relation to the State such functions as may be vested in them by order under this Act; and

(*b*) assumes the obligation of ensuring that due effect is given within the State to the provisions of this Act so far as they are applicable therein by virtue of the Instrument of Accession.

(2) An Instrument of Accession shall specify the matters which the Ruler accepts as matters with respect to which the Dominion Legislature may make laws for the State, and the limitations, if any, to which the power of the Dominion Legislature to make laws for the State, and the exercise of the executive authority of the Dominion in the State, are respectively to be subject.

(3) A Ruler may, by a supplementary Instrument executed by him and accepted by the Governor-General, vary the Instrument of Accession of his State by extending the functions which by virtue of that Instrument are exercisable by any Dominion authority in relation to his State.

(4) References in this Act to the Ruler of a State include references to any persons for the time being exercising the powers of the Ruler of the State, whether by reason of the Ruler's minority or for any other reason.

(5) In this Act a State which has acceded to the Dominion is referred to as an Acceding State and the Instrument by virtue of which a State has so acceded, construed together with any supplementary Instrument executed under this section, is referred to as the Instrument of Accession of that State.

(6) As soon as may be after any Instrument of Accession or supplementary Instrument has been accepted by the Governor-General under this section, copies of the Instrument and of the Governor-General's acceptance thereof shall be laid before the Dominion Legislature and all courts shall take judicial notice of every such Instrument and acceptance."

(2) An Instrument of Accession shall specify the matters which the Ruler accepts as matters with respect to which the Federal Legislature make laws for his State, and the limitations, if any, to which the power of the Federal Legislature to make laws for his State, and the exercise of the executive authority of the Federation in his State, are respectively to be subject.

(3) A Ruler may, by a supplementary Instrument executed by him and accepted by His Majesty, vary the Instrument of Accession of his State by extending the functions which by virtue of that Instrument are exercisable by His Majesty or any Federal Authority in relation to his State.

(4) Nothing in this section shall be construed as requiring His Majesty to accept any Instrument of Accession or supplementary Instrument unless he considers it proper so to do, or as empowering His Majesty to accept any such Instrument if it appears to him that the terms thereof are inconsistent with the scheme of Federation embodied in this Act:

Provided that after the establishment of the Federation, if any Instrument has in fact been accepted by His Majesty, the validity of that Instrument or of any of its provisions shall not be called in question and the provisions of this Act shall, in relation to the State, have effect subject to the provisions of the Instrument.

(5) It shall be a term of every Instrument of Accession that the provisions of this Act mentioned in the Second Schedule thereto, may, without affecting the accession of the State, be amended by or by authority of Parliament, but not such amendment shall, unless it is accepted by the Ruler in a supplementary Instrument, be construed as extending the functions which by virtue of the Instrument are exercisable by His Majesty or any Federal Authority in relation to the State.

(6) An Instrument of Accession or supplementary Instrument shall not be valid unless it is executed by the Ruler himself, but, subject as aforesaid, references in this Act to the Ruler of a State include references to any persons for the time being exercising the powers of the Ruler of the State, whether by reason of the Ruler's minority or for any other reason.

(7) After the establishment of the Federation the request of a Ruler that his State may be admitted to the Federation shall be transmitted to His Majesty through the Governor-General, and after the expiration of twenty years from the establishment of the Federation the Governor-General shall not transmit to His Majesty any such request until there has been presented to him by each Chamber of the Federal Legislature, for submission to His Majesty, an address praying that His Majesty may be pleased to admit the State into the Federation.

(8) In this Act a State which has acceded to the Federation is referred to as a Federated State, and the Instrument by virtue of which a State has so acceded, construed together with any supplementary Instrument executed under this section, is referred to as the Instrument of Accession of that State.

(9) As soon as may be after any Instrument of Accession or supplementary Instrument has been accepted by His Majesty under this section, copies of the Instrument, and of His Majesty's Acceptances thereof shall be laid before Parliament, and all courts shall take judicial notice of every such Instrument and Acceptance.

CHAPTER II.

THE FEDERAL EXECUTIVE.

The Governor-General.

Functions of Governor-General.

7. (1) Subject to the provisions of this Act, the executive authority of the [3d][Federation] shall be exercised on behalf of His Majesty by the Governor-General either directly or through officers subordinate to him, but nothing in this section shall prevent the [3d][Federal] Legislature from conferring function, upon subordinate authorities, or be deemed to transfer to the Governor-General any functions conferred by any existing Indian law on any court, judge or officer, or on any local or other authority.

(2) References in this Act to the functions of the Governor-General shall be construed as references to his powers and duties in the exercise of the executive authority of the Federation and to any other powers and duties conferred or imposed on him as Governor-General by or under this Act, [3e][other than powers exercisable by him reason that they have been assigned to him by His Majesty under Part I of this Act].

(3) The provisions of the Third Schedule to this Act shall have effect with respect to the salary and allowances of the Governor-General and the provision to be made for enabling him to discharge conveniently and with dignity the duties of his office.

Extent of executive authority of the Federation.

8. (1) Subject to the provisions of this Act, the executive authority of the [3d][Federation] extends—

(*a*) to the matters with respect to which the [3d][Federal] Legislature has power to make laws;

(*b*) to the raising in British India on behalf of His Majesty of naval, military and air forces and to the governance of His Majesty's forces borne on the Indian establishment;

(*c*) to the exercise of such rights, authority and jurisdiction as are exerciseable by His Majesty by treaty, grant, usage, sufferance, or otherwise in and in relation to the tribal areas:

Provided that—

(i) the said authority does not, save as expressly provided in this Act, extend in any Province to matters with respect to which the Provincial Legislature has power to make laws;

(ii) the said authority does not, save as expressly provided in this Act, extend in any [3f][Federated] State save to matters with respect to which the [3d][Federal] Legislature has power to make laws for that State, and the exercise thereof in each State shall be subject to such limitations, if any, as may be specified in the Instrument of Accession of the State;

(iii) the said authority does not extend to the enlistment or enrolment in any forces raised in India of any person unless he is either a subject of His Majesty or a native of India or of territories adjacent to India; and

(iv) commissions in any such force shall be granted by His Majesty save in so far as he may be pleased to delegate

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3d. This word was substituted by the word 'Dominion', by the India (Provisional Constitution) Order, 1947.

3e. These words were omitted by *ibid.*

3f. This word was substituted by the word 'acceding', by *ibid.*

that power by virtue of the provisions of Part I of this Act or otherwise.

(2) This executive authority of the Ruler of [3g][a Federated] State shall notwithstanding anything in this section, continue to be exercisable in that State with respect to matters with respect to which the [3h][Federal] Legislature has power to make lows for that State except in so far as the executive authority of the [3h][Federation] becomes exercisable in the State to the exclusion of the executive authority of the Ruler by virtue of a [3h][Federal] law.

Administration of Federal Affairs.

Council of ministers.

9. (1) There shall be a council of ministers, not exceeding ten in number, to aid and advise the Governor-General in the exercise of his functions, [3i][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 sub-section 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 direction 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 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].

Other provisions as to ministers.

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 [3j][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.

[3k][(5) 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].

3g. These words were substituted by the words 'an Acceding', by the India (Provisional Constitution) Order, 1947.
3h. This word was substituted by the word 'Dominion', by *ibid.*
3i. These words up to the end of the section were omitted, by *ibid.*
3j. These words were omitted by *ibid.*
3k. Sub-section (5) was omitted by *ibid.*

Provisions as to defence, ecclesiastical affairs, external affairs and the tribal areas.

[4]**11.** (1) The functions of the Governor-General with respect to defence and ecclesiastical affairs and with respect to external affairs, except the relations between the Federation and any part of His Majesty's dominions, shall be exercised by him in his discretion, and his functions in or in relations to the tribal areas shall be similarly exercised.

(2) To assist him in the exercise of those functions the Governor-General may appoint counsellors, not exceeding three in number, whose salaries and conditions of service shall be such as may be prescribed by His Majesty in Council.

Special responsibilities of Governor-General.

[4]**12.** (1) In the exercise of his functions the Governor-General shall have the following special responsibilities, that is to say,—

(*a*) the prevention of any grave menace to the peace or tranquility of India or any part thereof;

(*b*) the safeguarding of the financial stability and credit of the Federal Government;

(*c*) the safeguarding of the legitimate interests of minorities;

(*d*) the securing to, and to the dependants of, persons who are or have been members of the public services of any rights provided or preserved for them by or under this Act and the safeguarding of their legitimate interests;

(*e*) the securing in the sphere of executive action of the purposes which the provisions of Chapter III of Part V of this Act are designed to secure in relation to legislation;

(*f*) the prevention of action which would subject goods of United Kingdom or Burmese origin imported into India to discriminatory or penal treatment;

(*g*) the protection of the rights of any Indian State and the rights and dignity of the Ruler thereof; and

(*h*) the securing that the due discharge of his functions with respect to matter with respect to which he is by or under this Act required to act in his discretion, or to exercise his individual judgment, is not prejudiced or impeded by any course of action taken with respect to any other matter.

(2) If and in so far as any special responsibility of the Governor-General is involved, he shall in the exercise of his functions exercise his individual judgment as to the action to be taken.

Provisions as to Instrument of Instructions.

[4]**13.** (1) The Secretary of State shall by before Parliament the draft of any Instrument of Instructions (including any Instrument amending or revoking an Instrument previously issued) which it is proposed to recommend His Majesty to issue to the Governor-General, and no further proceedings shall be taken in relation thereto except in pursuance of an address presented to His Majesty in both Houses of Parliament praying 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.

4. Ss. 11-15 were omitted by the India (Provisional Constitution) Order, 1947.

Superintendence of Secretary of State.

[4]14. [(1) In so far as the Governor-General is by or under this Act required to act in his discretion or to exercise his individual judgment, he shall be under the general control of, and comply with such particular directions, if any, as may from time to time be given to him by, the Secretary of State, but 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 the provisions of this section.

(2) Before giving any directions under this section the Secretary of State shall satisfy himself that nothing in the directions requires the Governor-General to act in any manner inconsistent with any Instrument of Instructions issued to him by His Majesty.

Financial adviser to Governor-General.

[4]15. (1) The Governor-General may appoint a person to be his financial adviser.

(2) It shall be the duty of the Governor-General's financial adviser to assist by his advice the Governor-General in the discharge of his special responsibility for safeguarding the financial stability and credit of the Federal Government, and also to give advice to the Federal Government upon any matter relating to finance with respect to which he may be consulted.

(3) The Governor-General's financial adviser shall hold office during the pleasure of the Governor-General, and the salary and allowances of the financial adviser and the numbers of his staff and their conditions of service shall be such as the Governor-General may determine.

(4) The powers of the Governor-General with respect to the appointment and dismissal of a financial adviser, and with respect to the determination of his salary and allowances and the numbers of his staff and their conditions of service, shall be exercised by him in his discretion:

Provided that, if the Governor-General has determined to appoint a financial adviser he shall, before making any appointment other than the first appointment, consult his ministers as to the person to be selected.

Advocate-General for Federation.

16.[5] [(1) The Governor-General shall appoint a person, being a person qualified to be appointed a judge of the Federal Court, to be Advocate-General for the [Federation].[6]

(2) It shall be the duty of the Advocate-General to give advice to the [Federal][6] Government upon such legal matters, and to perform such other duties of a legal character, as may be referred to assigned to him by the Governor-General, and in the performance of his duties he shall have right of audience in all courts in British India and, in a case in which [federal][6] interests are concerned, in all courts in any [Federated][7] State.

(3) The Advocate-General shall hold office during the pleasure of the Governor-General, and shall receive such remuneration as the Governor-General may determine.

(4) In exercising his powers with respect to the appointment and dismissal of the Advocate-General and with respect to the determination of his remuneration, the Governor-General shall exercise his individual judgment.

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5. S. 16 came into force on 1-4-1937 under Government of India (Commencement and Transitory Provisions) Order, 1936, paras. 3 and 11.
6. Substituted by the word 'Dominion', by *ibid.*
7. Substituted by the word 'Acceding', by *ibid.*

Conduct of business of Federal Government.

17. (1) All executive action of the [Federal][6] Government shall be expressed to be taken in the name of the Governor-General.

(2) Orders and other instruments made and executed in the name of the Governor-General shall be authenticated in such manner as may be specified in rules to be made by the Governor-General, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Governor-General.

(3) The Governor-General shall make rules for the more convenient transaction of the business of the [Federal][6] Government, and for the allocation among ministers of the said business [in so far as it is not business with respect to which the Governor-General is by or under this Act required to act in his discretion].[8]

[9](4) The rules shall include provisions requiring ministers and secretaries to Government to transmit to the Governor-General all such information with respect to the business of the Federal Government as may be specified in the rules, or as the Governor-General may otherwise require to be so transmitted, and in particular requiring a minister to bring to the notice of the Governor-General and the appropriate secretary to bring to the notice of the minister concerned and of the Governor-General, any matter under consideration by him which involves, or appears to him likely to involve, any special responsibility of the Governor-General.

[9](5) In the discharge of his functions under sub-sections (2), (3) and (4) of this section the Governor-General shall act in his discretion after consultation with his ministers.

CHAPTER III.

THE FEDERAL LEGISLATURE.

General.

Constitution of the Federal Legislature.

[10]**18.** (1) There shall be a Federal Legislature which shall consist of His Majesty, represented by the Governor-General, and two Chambers, to be known respectively as the Council of State and the House of Assembly (in this Act referred to as "the Federal Assembly").

(2) The Council of State shall consist of one hundred and fifty-six representatives of British India and not more than one hundred and four representatives of the Indian States, and the Federal Assembly shall consist of two hundred and fifty representatives of British India and not more than one hundred and twenty-five representatives of the Indian States.

(3) The said representatives shall be chosen in accordances with the provisions in that behalf contained in the First Schedule to this Act.

(4) The Council of State shall be a permanent body not subject to dissolution, but as near as may be one-third of the members thereof shall

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8. The words within brackets were omitted, by *ibid*.
9. Sub-secs. (4) and (5) were omitted, by *ibid*.
10. S. 18 was substituted as follows, by *ibid*—
"The powers of the Dominion Legislature under this Act shall, until other provision is made by or in accordance with a law made by the Constituent Assembly under sub-section (1) of section 6 of the Indian Independence Act, 1947, be exercisable by that Assembly, and accordingly references in this Act to the Dominion Legislature shall be construed as references to the Constituent Assembly."

retire in every third year in accordance with the provisions in that behalf contained in the said First Schedule.

(5) Every Federal Assembly, unless sooner dissolved, shall continue for five years from the date appointed for their first meeting and no longer, and the expiration of the said period of five years shall operate as a disolution of the Assembly.

Sessions of the Legislature, prorogation and dissolution.

19. (1) The [11][Chambers of the Federal] Legislature shall be summoned to meet once at least in every year, and twelve months shall not intervene between their last sitting in one session and the date appointed for their first sitting in the next session.

(2) Subject to the provisions of this section, the Governor-General may in his discretion from time to time—

(*a*) summon the [Chambers or either Chamber][11] to meet at such time and place as he thinks fit;

(*b*) prorogue the Chambers;

[12](*c*) dissolve the Federal Assembly.

[12](3) The Chambers shall be summoned to meet for their first session on a day not later than such day as may be specified in that behalf in His Majesty's Proclamation establishing the Federation.

Right of Governor-General to address, and send messages to Chambers.

20. (1) The Governor-General may in his discretion address [13][either Chamber of] the Federal[6] Legislature [13][or both Chambers assembled together], and for that purpose require the attendance of members.

(2) The Governor-General may [13][in his discretion] and messages to [13][either Chamber of] the Federal[6] Legislature, whether with respect to a Bill then pending in the Legislature or otherwise, and [14][a Chamber to whom any message is so sent] shall with all convenient dispatch consider any matter which they are required by the message to take into consideration.

Rights of ministers, counsellors and Advocate-General as respects Chambers.

21. Every minister [13][every counsellor] and the Advocate-General shall have the right to speak in, and otherwise to take part in the proceedings of, [15][either Chamber, any joint sitting of the Chambers, and any committee of the Legislature] of which he may be named a member, but shall not by virtue of this section be entitled to vote.

Officers of Chambers.

22. [16](1) The Council of State shall, as soon as may be, choose two members of the Council to be respectively President and Deputy President thereof and, so often as the office of President or Deputy President becomes vacant, the Council shall choose another member to be President or Deputy President as the case may be.

[16](2) A member holding office as President or Deputy President of the Council of State shall vacate his office if he ceases to be a member of the

11. Substituted by the words 'Dominion Legislature', by *ibid.*
12. Cl. (c) of sub-sec. (2) and sub-sec. (3) (3) were omitted, by *ibid.*
13. The words within brackets were omitted, by *ibid.*
14. Substituted by the words 'the Legislature', by *ibid.*
15. Substituted by the words 'the Dominion Legislature or any committee thereof', by *ibid.*
16. Sub-secs. (1), (2), (3) and (5) of s. 22 were omitted, by *ibid.*

Council, may at any time resign his office by writing under his hand addressed to the Governor-General, and may be removed from his office by a resolution of the Council passed by a majority of all the then members of the Council; but no resolution for the purpose of this sub-section shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution.

[16](3) While the office of President is vacant, the duties of the office shall be performed by the Deputy President or, if the Office of Deputy President is also vacant, by such member of the Council as the Governor-General may in his discretion appoint for the purpose, and during any absence of the President from any sitting of the Council the Deputy President or, if he is also absent, such person as may be determined by the rules of procedure of the Council, or, if no such person is present, such other person as may be determined by the Council, shall act as President.

(4) There shall be paid to the President [17][and the Deputy President of the Council of State] such [18][salaries] as may be [19][respectively] fixed by Act of the Federal Legislature, and, until provision in that behalf is so made such salaries as the Governor-General may determine.

[16](5) The foregoing provisions of this section shall apply in relation to the Federal Assembly as they apply in relation to the Council of State with the substitution of the titles "Speaker" and "Deputy Speaker" for the titles "President" and "Deputy President" respectively, and with the substitution of references to the Assembly for references to the Council:

Provided that, without prejudice to the provisions of sub-section (2) of this section as applied by this sub-section, whenever the Assembly is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the Assembly after the dissolution.

Voting in Chambers, power of Chambers to act notwithstanding vacancies, and quorum.

23. (1) Save as provided in the last preceding section, all questions at any sitting [20][or joint sitting of the Chambers] shall be determined by a majority of votes of the members present and voting, other than the President [19][or Speaker] or person acting as such.

The President [19][or Speaker] or person acting as such shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.

(2) [21][A Chamber of] the [22][Federal] Legislature shall have power to act notwithstanding any vacancy in the membership thereof and any proceedings in the Legislature shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do sat or voted or otherwise took part in the proceedings.

(3) If at any time during a meeting of [23][a Chamber] less than one-sixth of the total number of members of [23][the Chamber] are present, it shall be the duty of the President [21][or Speaker] or person acting as such either to adjourn the Chamber, or to suspend the meeting until at least one-sixth of the members are present.

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17. Substituted by the words 'of the Dominion Legislature', by *ibid.*
18. Substituted by the word 'salary', by *ibid.*
19. The word within brackets was omitted, by *ibid.*
20. Substituted by the words 'of the Dominion Legislature' by *ibid.*
21. The words within brackets were omitted, by *ibid.*
22. Substituted by the word 'Dominion', by *ibid.*
23. Substituted by the words 'the Legislature', by *ibid.*

Provisions as to Members of Legislature.

Oath of members.

[24]**24.** Every member of either Chamber shall, before taking his seat, make and subscribe before the Governor-General, or some person appointed by him, an oath according to that one of the forms set out in the Fourth Schedule to this Act which the member accepts as appropriate in his case.

Vacation of seats.

[24]**25.** (1) No person shall be a member of both Chambers, and rules made by the Governor-General exercising his individual judgment shall provide for the vacation by a person who is chosen a member of both Chambers of his seat in one Chamber or the other.

(2) If a member of either Chamber—

(*a*) becomes, subject to any of the disqualifications mentioned in sub-section (1) of the next succeeding section; or

(*b*) by writing under his hand addressed to the Governor-General resigns his seat, his seat shall thereupon become vacant.

(3) If for sixty days a member of either Chamber is without permission of the Chamber absent from all meetings thereof, the Chamber may declare his seat vacant:

Provided that in computing the said period of sixty days no account shall be taken of any period during which the Chamber is prorogued, or is adjourned for more than four consecutive days.

Disqualifications for membership.

[24]**26.** (1) A person shall be disqualified for being chosen as, and for being, a member of either Chamber—

(*a*) if he holds any office of profit under the Crown in India, other than an office declared by Act of the Federal Legislature not to disqualify its holder;

(*b*) if he is of unsound mind and stands so declared by a competent Court;

(*c*) if he is an undischarged insolvent;

(*d*) If, whether before or after the establishment of the Federation, he has been convicted, or has, in proceedings for questioning the validity or regularity of an election, been found to have been guilty, of any offence or corrupt or illegal practice relating to elections which has been declared by Order in Council or by an Act of the Federal Legislature to be an offence or practice entailing disqualification for membership of the Legislature, unless such period has elapsed as may be specified in that behalf by the provisions of that Order or Act;

(*e*) if, whether before or after the establishment of the Federation, he has been convicted of any other offence by a Court in British India or in a State which is a Federated State and sentenced to transportation or to imprisonment for not less than two years, unless a period of five years, or such less period as the Governor-General, acting in his discretion, may allow in any particular case, has elapsed since his release;

(*f*) if, having been nominated as a candidate for the Federal or any Provincial Legislature or having acted as an election agent of

24. Ss. 24-27 were omitted, by *ibid*.

any person so nominated, he has failed to lodge a return of election expenses within the time and in the manner required by any Order in Council made under this Act or by any Act of the Federal or the Provincial Legislature, unless five years have elapsed from the date by which the return ought to have been lodged or the Governor-General, acting in his discretion, has removed the disqualification:

Provided that a disqualification under paragraph (f) of this sub-section shall not take effect until the expiration of one month from the date by which the return ought to have been lodged or of such longer period as the Governor-General, acting in his discretion, may in any particular case allow.

(2) A person shall not be capable of being chosen a member of either Chamber while he is serving a sentence of transportation or of imprisonment for a criminal offence.

(3) Where a person who, by virtue of a conviction or a conviction and a sentence, becomes disqualified by virtue of paragraph (*d*) or paragraph (*e*) of sub-section (1) of this section is at the date of the disqualification a member of the Legislature, his seat shall, notwithstanding anything in this or the last preceding section, not become vacant by reason of the disqualification until three months have elapsed from the date thereof or, if within those three months an appeal or petition for revision is brought in respect of the conviction or the sentence, until that appeal or petition is disposed of, but during any period during which his membership is preserved by this sub-section he shall not sit or vote.

(4) For the purposes of this section a person shall not be deemed to hold an office of profit under the Crown in India by reason only that—

(*a*) he is a minister either for the Federation or for a Province: or

(*b*) while serving a State, he remains a member of one of the services of the Crown in India and retains all or any of his rights as such.

Penalty for sitting and voting when not qualified, or when disqualified.

[24]**27.** If a person sits or votes as a member of either Chamber when he is not qualified or is disqualified for membership thereof, or when he is prohibited from so doing by the provisions of sub-section (3) of the last preceding section, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the [Federation].[22]

Privileges &c. of members.

28. (1) Subject to the provisions of this Act and to the rules and standing orders regulating the procedure of the [Federal][22] Legislature, there shall be freedom of speech in the Legislature, and no member of the Legislature shall be liable to any proceedings in any Court in respect of anything said or any vote given by him in the Legislature or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of [25][either Chamber of] the Legislature of any report, paper, votes or proceedings.

(2) In other respects, the privileges of members of the [25][Chambers] shall be such as may from time to time be defined by Act of the Federal Lagislature and, until so defined, shall be such were immediately before the establishment of the Federation enjoyed by members of the Indian Legislature.

25. The words within brackets were omitted, by *ibid.*

[27](3) Nothing in any existing Indian Act, and, notwithstanding anything in the foregoing provisions of this section, nothing in this Act, shall be construed as conferring, or empowering the [Federal][22] Legislature to confer, on either Chamber or on both Chambers sitting together, or on any committee or officer of the Legislature, the status of the Court, or any punitive or discipliniary powers other than a power to remove or exclude persons infringing the rules or standing orders, or otherwise behaving in a disorderly manner.

[27](4) Provision may be made by an Act of the [Federal][22] Legislature for the punishment, on conviction before a Court, of persons who refuse to give evidence or produce documents before a committee of a Chamber when duly required by the chairman of the committee so to do:

Provided that any such Act shall have effect subject to such rules for regulating the attendance before such committees of persons who are, or have been, in the service of the Crown in India, and safeguarding confidential matter from disclosure, as may be made by the Governor-General exercising his individual judgment.

(5) The provisions of sub-sections (1) and (2) of this section shall apply in relation to persons who by virtue of this Act have the right to speak in, and otherwise take part in the proceedings of, [28][a Chamber] as they apply in relation to members of the Legislature.

Salaries and allowances of members.

29. Members of [26][either Chamber] shall be entitled to receive such salaries and allowances as may from time to time be determined by Act of the [Federal Legislature][26] and, until provision in that respect is so made allowances at such rates and upon such conditions as were immediately before the date of the establishment of the [Federation][22] applicable in the case of members of the Legislative Assembly of the Indian Legislature.

Legislative Procedure

Provisions as to introduction and passing of Bills.

[29]**30.** (1) Subject to the special provisions of this Act with respect to financial Bills, a Bill may originate in either Chamber.

(2) Subject to the provisions of the next succeeding section, a Bill shall not be deemed to have been passed by the Chambers of the Legislature unless it has been agreed to by both Chambers, either without amendment or with such amendments only as are agreed to by both Chambers.

(3) A Bill pending in the Legislature shall not lapse by reason of the prorogation of the Chambers.

(4) A Bill pending in the Council of State which has not been passed by the Federal Assembly shall not lapse on a dissolution of the Assembly.

26. Substituted by the words 'Dominion Legislature', by *ibid.*
27. Sub-secs. (3) and (4) of s. 28 were omitted, by *ibid.*
28. Substituted by the words 'the Legislature', by *ibid.*
29. S. 30 was substituted, by *ibid.*, as follows—
"(1) A Bill pending in the Dominion Legislature shall not lapse by reason of the prorogation of the Legislature.
(2) A Bill which, immediately before the establishment of the Dominion, was pending in the Legislative Assembly of the Indian Legislature may, subject to any provision to the contrary which may be included in rules made by the Dominion Legislature under section 38 of this Act, be continued in the Dominion Legislature as if the proceedings taken with reference to the Bill in the said Legislative Assembly had been taken in the Dominion Legislature."

(5) A Bill which is pending in the Federal Assembly or which having been passed by the Federal Assembly is pending in the Council of State shall, subject to the provisions of the next succeeding section, lapse on a dissolution of the Assembly.

Joint sitting of both Chambers in certain cases.

[30]**31.** (1) If after a Bill has been passed by one Chamber and transmitted to the other Chamber—

(*a*) the Bill is rejected by the other Chamber; or

(*b*) the Chambers have finally disagreed as to the amendments to be made in the Bill; or

(*c*) more than six months elapse from the date of the reception of the Bill by the other Chamber without the Bill being presented to the Governor-General for his assent,

the Governor-General may, unless the Bill has lapsed by reason of a dissolution of the Assembly, notify to the Chambers, by message if they are sitting or by public notification if they are not sitting, his intention to summon them to meet in a joint sitting for the purpose of deliberating and voting on the Bill:

Provided that, if it appears to the Governor-General that the Bill relates to finance or to any matter which affects the discharge of his functions in so far as he is by or under this Act required to act in his discretion or to exercise his individual judgment, he may so notify the Chambers notwithstanding that there has been no rejection of or final disagreement as to the Bill notwithstanding that the said period of six months has not elapsed, if he is satisfied that there is no reasonable prospect of the Bill being presented to him for his assent without undue delay.

In reckoning any such period of six months as is referred to in this sub-section, no account shall be taken of any time during which the Legislature is prorogued or during which both Chambers are adjourned for more than four days.

(2) Where the Governor-General has notified his intention of summoning the Chambers to meet in a joint sitting, neither Chamber shall proceed further with the Bill, but the Governor-General may at any time in the next section after the expiration of six months from the date of his notification summon the Chambers to meet in a joint sitting for the purpose specified in his notification and, if he does so, the Chambers shall meet accordingly:

Provided that, if it appears to the Governor-General that the Bill is such a Bill as is mentioned in the proviso to sub-section (1) of this section, he may summon the Chambers to meet in a joint sitting for the purpose aforesaid at any date, whether in the same session or in the next session.

(3) The funrtions of the Governor-General under the provisos to the two last preceding sub-sections shall be exercised by him in his discretion.

(4) If at the joint sitting of the two Chambers the Bill, with such amendments, if any, as are agreed to in joint sitting, is passed by a majority of the total number of members of both Chambers present and voting, it shall be deemed for the purposes of this Act to have been passed by both Chambers:

Provided that at a joint sitting—

(*a*) if the Bill, having been passed by one Chamber, has not been passed by the other Chamber with amendments and returned to

30. S. 31 was omitted, by *ibid.*

the Chamber in which it originated, no amendment shall be proposed to the Bill other than such amendments (if any) as are made necessary by the delay in the passage of the Bill;

(*b*) if the Bill has been so passed and returned, only such amendments as aforesaid shall be proposed to the Bill and such other amendments as are relevant to the matters with respect to which the Chambers have not agreed,

and the decision of the person presiding as to the amendments which are admissible under this sub-section shall be final.

(5) A joint sitting may be held under this section and a Bill passed thereat notwithstanding that a dissolution of the Assembly has intervened since the Governor-General notified his intention to summon the Chambers to meet therein.

Assent to Bills and power of Crown to disallow Acts.

32. (1) When a Bill has been passed by the[31] [Chambers,] it shall be presented to the Governor-General, and the Governor-General shall in his discretion declare either that he assents in His Majesty's name to the Bill, or that he withholds assent therefrom,[32] [or that he reserves the Bill for the signification of His Majesty's pleasure.]

Provided that the Governor-General may in his discretion return the Bill to the Chambers with a message requesting that they will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message, and the Chambers shall reconsider the Bill accordingly.

[33](2) A Bill reserved for the signification of His Majesty's pleasure shall not become an Act of the Federal Legislature unless and until, within twelve months from the day on which it was presented to the Governor-General, the Governor-General makes known by public notification that His Majesty has assented thereto.

[33](3) Any Act assented to by the Governor-General may be disallowed by His Majesty within twelve months from the day of the Governor-General's assent, and where any Act is so disallowed the Governor-General shall forthwith make the disallowance known by public notification, and as from the date of the notification the Act shall become void.

Procedure in Financial matters.

Annual financial statement.

33. (1) The Governor-General shall in respect of every financial year cause to be laid before [23] [both Chambers] of the Federal Legislature a statement of the estimated receipts and expenditure of the Federation for that year, in this Part of this Act referred to as the "annual financial statement".

(2) The estimates of expenditure embodied in the annual financial statement shall show separately—

(*a*) the sums required to meet expenditure described by this Act as expenditure charged upon the revenues of the Federation; and

(*b*) the sums required to meet expenditure proposed to be made from the revenues of the Federation,

and shall distinguish expenditure on revenue account from other expenditure,[32] [and indicate the sums, if any, which are included solely

31. Substituted by the words 'Dominion Legislature', by *ibid.*
32. The words within brackets were omitted, by *ibid.*
33. Sub-secs. (2) and (3) of s. 32 were omitted, by *ibid.*

because the Governor-General has directed their inclusion as being necessary for the due discharge of any of his special responsibilities.]

(3) The following expenditure shall be expenditure charged on the revenues of the Federation:—

(*a*) the salary and allowances of the Governor-General and other expenditure relating to his office for which provision is[34] required to be made by Order in Council];

(*b*) debt charges for which the Federation is liable, including interest, sinking fund charges and redemption charges, and other expenditure relating to the raising of loans and the service and redemption of debt:

(*c*) [34a]the salaries and allowances of ministers, [32][of counsellors, of the financial adviser], of the advocate-general, of chief commissioners, [32][and of the staff of the financial adviser];

(*d*) the salaries, allowances and pensions payable to or in respect of judges of the Federal Court, and the pensions payable to or in respect of judges of any High Court;

[35](*e*) expenditure for the purpose of the discharge by the Governor-General of his functions with respect to defence and ecclesiastical affairs, his functions with respect to external affairs in so far as he is by or under this Act required in the exercise thereof to act in his discretion, his functions in or in relation to tribal areas, and his functions in relation to the administration of any territory in the direction and control of which he is under this Act required to act in his discretion: provided that the sum so charged in any year in respect of expenditure on ecclesiastical affairs shall not exceed forty-two lakhs of rupees, exclusive of pension charges;

[35](*f*) the sums payable to His Majesty under this Act out of the revenues of the Federation in respect of the expenses incurred in discharging the functions of the Crown in its relations with Indian States;

[35](*g*) any grants for purpose connected with the administration of any areas in a Province which are for the time being excluded areas;

(*h*) any sums required to satisfy any judgment, decree or award of any Court or arbitral tribunal;

(*i*) any other expenditure declared by this Act or any Act of the Federal Legislature to be so charged.

[35](4) Any question whether any proposed expenditure falls within a class of expenditure charged on the revenues of the Federation shall be decided by the Governor-General in his discretion.

Procedure in Legislature with respect to estimates.

34. (1) So much of the estimate of expenditure as relates to expenditure charged upon the revenues of the Federation shall not be submitted to the vote of the Legislature, but nothing in this sub-section shall be construed as preventing the discussion in [32][either Chamber of] the Legislature of any of those estimates other than estimates relating to expenditure referred to

34. Substituted by the words 'made by or under the Third Schedule to the Act', by *ibid.*

34a. This cl. in so far as it relates to the Advocate-General came into force on 1-4-1937, under Government of India (Commencement and Transitory Provisions) Order, 1936, paras. 3 and 11.

35. Cls. (e), (f) and (g) of sub-sec. (3) and sub-sec. (4) were omitted, by *ibid.*

in paragraph (*a*) [32][or paragraph (*f*)] of sub-section (3) of the preceding section.

(2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the [36][Federal Assembly and thereafter to the Council of State, and either Chamber] shall have power to assent or to refuse to assent to any demand, or to assent to any demand subject to a reduction of the amount specified therein:

[37]Provided that, where the Assembly have refused to assent to any demand, that demand shall not be submitted to the Council of State, unless the Governor-General so directs and, where the Assembly have assented to a demand subject to a reduction of the amount specified therein, a demand for the reduced amount only shall be submitted to the Council of State, unless the Governor-General otherwise directs; and where, in either of the said cases, such a direction is given, the demand submitted to the Council of State shall be for such amount, not being a greater amount than that originally demanded, as may be specified in the direction.

([37](3) If the Chambers differ with respect to any demand the Governor-General shall summon the two Chambers to meet in a joint sitting for the purpose of deliberating and voting on the demand as to which they disagree, and the decision of the majority of the members of both Chambers present and voting shall be deemed to be the decision of the two Chambers.

(4) No demand for a grant shall be made except on the recommendation of the Governor-General.

Authentication of schedule of authorised expenditure.

35. (1) The Governor-General shall authenticate by his signature a schedule specifying—

(*a*) the grants made by the [38][Chambers] under the last preceding section;

(*b*) the several sums required to meet the expenditure charged on the revenues of the Federation but not exceeding, in the case of any sum, the sum shown in the statement previously laid before the Legislature:

[39]Provided that, if the Chambers have not assented to any demand for a grant or have assented subject to a reduction of the amount specified therein, the Governor-General may, if in his opinion the refusal or reduction would affect the due discharge of any of his special responsibilities, include in the schedule such additional amount, if any, not exceeding the amount of the rejected demand or the reduction, as the case may be, as appears to him necessary in order to enable him to discharge that responsibility.

(2) The schedule so authenticated shall be laid before [38][both Chambers] but shall not be open to discussion or vote therein.

(3) Subject to the provisions of the next succeeding section, no expenditure from the revenues of the [Federation][42] shall be deemed to be duly authorised unless it is specified in the schedule so authenticated.[40]

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36. Substituted by the words 'Dominion Legislature', by *ibid.*
37. The Proviso to sub-sec. (2) and sub-sec. (3) of s. 34 were omitted, by *ibid.*
38. Substituted by the word 'Legislature', by *ibid.*
39. The Proviso to s. 35 was omitted, by *ibid.*
40. The folloying Proviso was added to sub-sec. (3) of s. 35—
    Provided that expenditure from the said revenues during the period beginning with the 15th day of August 1947 and ending with the 31st day of March 1948 may be authorised or ratified by general or special order of the Governor-General.
41. The words within brackets were omitted, by *ibid.*
42. Substituted by the word 'Dominion', by *ibid.*

Supplementary statements of expenditure.

36. If in respect of any financial year further expenditure from the revenues of the Federation becomes necessary over and above the expenditure herefore authorised for that year, the Governor-General shall cause to be laid before [41][both Chambers of] the [Federal] [42]Legislature a supplementary statement showing the estimated amount of that expenditure, and the provisions of the preceding sections shall have effect in relation to that statement and that expenditure as they have effect in relation to the annual financial statement and expenditure mentioned therein.

Special provisions as to financial Bills.

37. (1) A Bill or amendment making provision—

(*a*) for imposing or increasing any tax; or

(*b*) for regulating the borrowing of money or the giving of any guarantee by the Federal [42]Government, or for amending the law with respect to any financial obligations undertaken or to be undertaken by the Federal [42]Government; or

(*c*) for declaring any expenditure to be expenditure charged on the revenues of the Federation[42], or for increasing the amount of any such expenditure, shall not be introduced or moved except on the recommendation of the Governor-General, [41][and a Bill making such provision shall not be introduced in the Council of State.]

(2) A Bill or amendment shall not be deemed to make provision for any of the purposes aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered.

(3) A Bill which, if enacted and brought into operation, would involve expenditure from the revenues of the [Federation][42] shall not be passed by [43][either Chamber] unless the Governor-General has recommended to [44][that Chamber the consideration of the Bill.]

Procedure generally.

Rules of procedure.

38. (1) [41][Each Chamber of] the [Federal][42] Legislature may make rules for regulating, subject to the provisions of this Act, their procedure and the conduct of their business:

[41][Provided that as regards each Chamber the Governor-General shall in his direction, after consultation with the President or the Speaker, as the case may be, make rules—

(*a*) for regulating the procedure of, and the conduct of business in, the Chamber in relation to any matter which affects the discharge of his functions in so far as he is by or under this Act required to act in his discretion or to exercise his individual judgment;

(*b*) for securing the timely completion of financial business;

(*c*) for prohibiting the discussion of, or the asking of question on, any matter connected with any Indian State, other than a matter with respect to which the Federal Legislature has power to make laws for that State, unless the Governor-General in his discretion is satisfied that the matter affects Federal interests or affects a British subject, and has given his consent to the matter being discussed or the question being asked;

43. Substituted by the words 'the Dominion Legislature', by *ibid.*
44. Substituted by the words 'the Legislature', by *ibid.*

(*d*) for prohibiting, save with the consent of the Governor-General in his discretion,—

(i) the discussion of, or the asking of questions on, any matter connected with relations between His Majesty or the Governor-General and any foreign State or Prince; or

(ii) the discussion, except in relation to estimates of expenditure, of, or the asking of questions on, any matter connected with the tribal areas or the administration of any excluded area; or

(ii) the discussion of, or the asking of questions on, any action taken in his discretion by the Governor-General in relation to the affairs of a Province; or

(iv) the discussion of, or the asking of questions on, the personal conduct of the Ruler of any Indian State, or of a member of the ruling family thereof; and, if and in so far as any rule so made by the Governor-General is inconsistent with any rule made by a Chamber, the rule made by the Governor-General shall prevail.]

[45][(2) The Governor-General, after consultation with the President of the Council of State and the Speaker of the Legislative Assembly, may make rules as to the procedure with respect to joint sittings of, and communications between, the two Chambers.

The said rules shall make such provision for the purposes specified in the proviso to the preceding sub-section as the Governor-General in his discretion may think fit.

(3) Until rules are made under this section, the rules of procedure and standing orders in force immediately before the establishment of the Federation with respect to[46] the Indian Legislature shall have effect in relation to the Federal Legislature subject to such modifications and adaptations as may be made therein by the [47][Governor-General in his discretion].

[45][(4) At a joint sitting of the two Chambers the President of the Council of State, or in his absence such person as may be determined by rules of procedure made under this section, shall preside.

English to be used in the Federal Legislature.

[48]**39.** All proceedings in the Federal Legislature shall be conducted in the English language:

Provided that the rules of procedure of each Chamber and the rules with respect to joint sittings shall provide for enabling persons unacquainted, or not sufficiently acquainted, with the English language to use another language.

Restrictions on discussion in the Legislature.

40. (1) No discussion shall take place in the Federal Legislature with respect to the conduct of any judge of the Federal Court or a High Court in the discharge of his duties.

In this sub-section the reference to a High Court shall be construed as including a reference to any court in a Federated State which is a High Court for any of the purposes of Part IX of this Act.

[48](2) If the Governor-General in his discretion certifies that the discussion of a Bill introduced or proposed to be introduced in the Federal

45. Sub-secs. (2) and (4) of s. 38 yere omitted, by *ibid.*
46. The words 'the Legislative Assembly of' were inserted, by *ibid.*
47. The words 'President of that Legislature' were substituted, by *ibid.*
48. Omitted, by *ibid.*

Legislature, or of any specified clause of a Bill, or of any amendment moved or proposed to be moved to a Bill, would affect the discharge of his special responsibility for the prevention of any grave menace to the peace or tranquillity of India or any part thereof, he may in his discretion direct that no proceedings, or no further proceedings, shall be taken in relation to the Bill, clause or amendment, and effect shall be given to the direction.

Courts not to inquire into proceedings of the Legislature.

41. (1) The validity of any proceedings in the Federal Legislature shall not be called in question on the ground of any alleged irregularity of procedure.

(2) No officer or other member of the Legislature in whom powers are vested by or under this Act for regulating procedure or the conduct of business, or for maintaining order, in the Legislature shall be subject to the jurisdiction of any Court in respect of the exercise by him of those powers.

CHAPTER IV.

LEGISLATIVE POWERS OF GOVERNOR-GENERAL.

Power of Governor-General to promulgate ordinances during recess of Legislature

[49]**42.** (1) If at any time when the Federal Legislature is not in session the Governor-General is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such ordinances as the circumstances appear to him to require:

Provided that the Governor-General—

(*a*) shall exercise his individual judgment as respects the promulgation of any ordinance under this section if a Bill containing the same provisions would under this Act have required his previous sanction to the introduction thereof into the Legislature; and

(*b*) shall not, without instructions from His Majesty, promulgate any such ordinance if he would have deemed it necessary to reserve a Bill containing the same provisions for the signification of His Majesty's pleasure thereon.

(2) An ordinance promulgated under this section shall have the same force and effect as an Act of the Federal Legislature assented to by the Governor-General, but every such ordinance—

(*a*) shall be laid before the Federal Legislature and shall cease to operate at the expiration of six weeks from the reassembly of the Legislature, or, if before the expiration of that period resolutions disapproving it are passed by both Chambers, upon the passing of the second of those resolutions:

(*b*) shall be subject to the provisions of this Act relating to the power of His Majesty to disallow Acts as if it were an Act of the Federal Legislature assented to by the Governor-General; and

(*c*) may be withdrawn at any time by the Governor-General.

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49. For s. 42, the following was substituted, by *ibid.*—

"The Governor-General may, in cases of emergency, make and promulgate Ordinances for the peace and good government of the Dominion or any part there of, and any Ordinance so made shall, for the space of not more than six months from its promulgation have the like force of law as an Act passed by the Dominion Legislature; but the power of making Ordinances under this section is subject to the like restrictions as the power of the Dominion Legislature under this Act to make laws; and any Ordinance made under this section may be controlled or superseded by any such Act."

(3) If and so far as an ordinance under this section makes any provision which the Federal Legislature would not under this Act be competent to enact, it shall be void.

Power of Governor-General to promulgate ordinances at any time with respect to certain subjects.

[50]**43.** (1) If at any time the Governor-General is satisfied that circumstances exist which render it necessary for him to take immediate action for the purpose of enabling him satisfactorily to discharge his functions in so far as he is by or under this Act required in the exercise thereof to act in his discretion or to exercise his individual judgment, he may promulgate such ordinance as in his opinion the circumstances of the case require.

(2) An ordinance promulgated under this section shall continue in operation for such period not exceeding six months as may be specified therein, but may be a subsequent ordinance be extended for a further period not exceeding six months.

(3) An ordinance promulgated under this section shall have the same force and effect as an Act of the Federal Legislature assented to by the Governor-General, but every such ordinance—

(*a*) shall be subject to the provisions of this Act relating to the power of His Majesty to disallow Acts as if it were an Act of the Federal Legislature assented to by the Governor-General;

(*b*) may be withdrawn at any time by the Governor-General; and

(*c*) if it is an ordinance extending a previous ordinance for a further period, shall be communicated forthwith to the Secretary of State and shall be laid by him before each House of Parliament.

(4) If and so far as an ordinance under this section makes any provision which the Federal Legislature would not under this Act be competent to enact, it shall be void.

(5) The functions of the Governor-General under this section shall be exercised by him in his discretion.

Power of Governor-General in certain circumstances to enact Acts.

[50]**44.** (1) If at any time it appears to the Governor-General that, for the purpose of enabling him satisfactorily to discharge his functions in so far as he is by or under this Act required in the exercise thereof to act in his discretion or to exercise his individual judgment, it is essential that provision should be made by legislation, he may by message to both of the Legislature explain the circumstances which in his opinion render legislation essential, and either—

(*a*) enact forthwith, as a Governor-General's Act, a Bill containing such provisions as he considers necessary; or

(*b*) attach to his message a draft of the Bill which he considers necessary.

(2) Where the Governor-General takes such action as is mentioned in paragraph (*b*) of the preceding sub-section, he may at any time after the expiration of one month enact, as a Governor-General's Act, the Bill proposed by him to the Chambers either in the form of the draft communicated to them or with such amendments as he deems necessary, but before so doing he shall consider any address which may have been presented to him within the said period by either Chamber with reference to the Bill or to amendments suggested to be made therein.

(3) A Governor-General's Act shall have the same force and effect, and shall be subject to disallowance in the same manner, as an Act of the

50. Omitted, by *ibid.*

Federal Legislature assented to by the Governor-General and, if and in so far as a Governor-General's Act makes any provision which the Federal Legislature would not under this Act be competent to enact, it shall be void.

(4) Every Governor-General's Act shall be communicated forthwith to the Secretary of State and shall be laid by him before each House of Parliament.

(5) The functions of the Governor-General under this section shall be exercised by him in his discretion.

CHAPTER V.

PROVISIONS IN CASE OF FAILURE OF CONSTITUTIONAL MACHINERY.

Power of Governor-General to issue Proclamations.

[1]**45.** (1) If at any time the Governor-General is satisfied that a situation has arisen in which the government of the Federation cannot be carried on in accordance with the provisions of this Act, he may by Proclamation—

(*a*) declare that his functions shall be such extent as may be specified in the Proclamation be exercised by him in his discretion;

(*b*) assume to himself all or any of the powers vested in or exercisable by any Federal body or authority, . .

and any such Proclamation may contain such incidental and consequential provisions as may appear to him to be necessary or desirable for giving effect to the objects of the Proclamation, including provisions for suspending in whole or in part the operation of any provisions of this Act relating to any Federal body or authority:

Provided that nothing in this sub-section shall authorise the Governor-General to assume to himself any of the powers vested in or exercisable by the Federal Court or to suspend, either in whole or in part, the operation of any provision of this Act relating to the Federal Court.

(2) Any such Proclamation may be revoked or varied by a subsequent Proclamation.

(3) A Proclamation issued under this section—

(*a*) shall be communicated forthwith to the Secretary of State and shall be laid by him before each House of Parliament;

(*b*) unless it is a Proclamation revoking a previous Proclamation, shall cease to operate at the expiration of six months:

Provided that, if and so often as a resolution approving the continuance in force of such a Proclamation is passed by both Houses of Parliament, the Proclamation shall, unless revoked, continue in force for a further period of twelve months from the date on which under this sub-section it would otherwise have ceased to operate.

(4) If at any time the government of the Federation has for a continuous period of three years been carried on under and by virtue of a Proclamation issued under this section, then, at the expiration of that period, the Proclamation shall cease to have effect and the government of the Federation shall be carried on in accordance with the other provisions of this Act, subject to any amendment thereof which Parliament may deem it necessary to make, but nothing in this sub-section shall be construed as extending the power of Parliament to make amendments in this Act without affecting the accession of a State.

1. Omitted, by *ibid.*

(5) If the Governor-General, by a Proclamation under this section, assumes to himself any power of the Federal Legislature to make laws, made by him in the exercise of that power shall, subject to the terms thereof, continue to have effect until two years have elapsed from the date on which the Proclamation ceases to have effect, unless sooner repealed or re-enacted by Act of the appropriate Legislature, and any reference in this Act to Federal Acts, Federal laws, or Acts or laws of the Federal Legislature shall be construed as including a reference to such a law.

(6) The functions of the Governor-General under this section shall be exercised by him in his discretion.

PART III.[2]

THE GOVERNORS' PROVINCES.

CHAPTER I.

THE PROVINCES.

Governors' Provinces.

46. (1) Subject to the provisions of the next succeeding section with respect to Berar, the following shall be Governors' Provinces, that is to say, Madras, Bombay, [3][Bengal, the United Provinces, the Punjab, Bihar, the Central Provinces and Berar, Assam, the North-West Frontier Province, Orissa, Sind,], and such other Governors' Provinces as may be created under this Act.

[1](2) Burma shall cease to be part of India.

(3) In this Act the expression "Province" means, unless the context otherwise requires, a Governor's Province, and "Provincial" shall be constructed accordingly.

Provisions as to Berar.

[4]**47.** Whereas certain territory (in the Act referred to as "Berar") is under the sovereignty of His Exalted Highness the Nizam of Hyderabad, but is at the date of the passing of this Act, by virtue of certain agreements subsisting between His Majesty and His Exalted Highness, administered together with the Central Provinces.

And whereas it is in contemplation that an agreement shall be concluded between His Majesty and His Exalted Highness whereby, notwithstanding the continuance of the sovereignty of His Exalted Highness over Berar, the Central Provinces and Berar may be governed together as one Governor's Province under this Act by the name of the Central Provinces and Berar:

Now, therefore—

(1) While any such agreement is in force—

(*a*) Berar and the Central Provinces shall, notwithstanding the continuance of the sovereignty of His Exalted Highness, be

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2 This Part came into force on 1-4-1937 under Government of India (Commencement and Transitory Provisions) Order, 1936, para. 3

3. Substituted by the words 'West Bengal, the United Provinces, East Punjab, Bihar, the Central Provinces and Berar, Assam and Orissa', by *ibid.*

4. S. 47 was substituted, by *ibid.*, as follows—

"Berar shall continue to be governed together with the Central Provinces as one Governor's Province under this Act by the name of the Central Provinces and Berar and in the same manner as immediately before the establishment of the Dominion; and any references in this Act to the Dominion of India shall be construed as including a reference to Berar."

deemed to be one Governor's Province by the name of the Central Provinces and Berar;

(*b*) any reference in this Act or in any other Act to British India shall be construed as a reference to British India and Berar, and any reference in this Act to subjects of His Majesty shall, except for the purposes of any oath of allegiance, be deemed to include a reference to Berari subjects of His Exalted Highness:

(*c*) any provision made under this Act with respect to the qualifications of the voters for the Provincial Legislature of the Central Provinces and Berar, or the voters for the Council of State, shall be such as to give effect to any provisions with respect to those matters contained in the agreement.

(2) If no such agreement is concluded, or if such an agreement is concluded but subsequently ceases to have effect, references in this Act to the Central Provinces and Berar shall be construed as references to the Central Provinces, and His Majesty in Council may make such consequential modifications in the provisions of this Act relating to the Central Provinces as he thinks proper.

CHAPTER II.

THE PROVINCIAL EXECUTIVE.

The Governor.

Appointment of Governor.

[1]**48.** (1) The Governor of a Province is appointed by His Majesty by a Commission under the Royal Sign Manual.

(2) The provisions of the Third Schedule to this Act shall have effect with respect to the salary and allowances of the Governor and the provision to be made for enabling him to discharge conveniently and with dignity the duties of his office.

Executive authority of Province.

49. (1) The executive authority of a Province shall be exercised on behalf of His Majesty by the Governor, either directly or through officers subordinate to him, but nothing in this section shall prevent the Federal or the Provincial Legislature from conferring functions upon subordinate authorities, or be deemed to transfer to the Governor any functions conferred by any existing Indian law on any court, judge or officer or any local or other authority.

(2) Subject to the provisions of this Act, the executive authority of each Province extends to the matters with respect to which the Legislature of the Province has power to make laws.

Administration of Provincial Affairs.

Council of Ministers.

50. (*1*) There shall be a council of ministers to aid and advice the Governor in the exercise of his functions [6]except in so far as he is by or under this Act required to exercise his functions or any of them in his discretion:

5. Sub-sec (1) of s. 48 was substituted, by *ibid.*, as follows—
"(1) The Governor of a Province holding office as from the date of the establishment of the Dominion is appointed by His Majesty by a Commission under the Royal Sign Manual: but any person appointed thereafter to be the Governor of a Province shall be appointed by the Governor-General."

6. The words within brackets were omitted, by *ibid.*

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.]

Other provisions as to ministers.

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.

Special responsibilities of Governor.

[7]**52.** (*1*) In the exercise of his functions the Governor shall have the following special responsibilities, that is to say:—

(*a*) the prevention of any grave menace to the peace or tranquillity of the Province or any part thereof;

(*b*) the safeguarding of the legitimate interests of minorities:

(*c*) the securing to, and to the dependants of, persons who are or have been members of the public services of any rights, provided or preserved for them by or under this Act and the safeguarding of their ligitimate interests;

(*d*) the securing in the sphere of executive action of the purposes which the provisions of chapter III of Part V of this Act are designed to secure in relation to legislation;

(*e*) the securing of the peace and good government of areas which by or under the provisions of this Part of this Act are declared to be partially excluded areas;

(*f*) the protection of the rights of any Indian State and the rights and dignity of the Ruler thereof; and

7. Omitted, by *ibid.*

(*g*) the securing of the execution of orders or directions lawfully issued to him under Part VI of this Act by the Governor-General in his discretion.

(*2*) The Governor of the Central Provinces and Berar shall also have the special responsibility of securing that a reasonable share of the revenues of any Province is expended in or for the benefit of Berar; the Governor of any Province which includes an excluded area shall also have the special responsibility of securing that the due discharge of his functions in respect of excluded areas is not prejudiced or impeded by any course of action taken with respect to any other matter: any Governor who is discharging any functions as agent for the Governor-General shall also have the special responsibility of securing that the due discharge of those functions is not prejudiced or impeded by any course of action taken with respect to any other matter, and the Governor of Sind shall also have the special responsibility of securing the proper administration of the Lloyd Barrage and Canals Scheme.

(*3*) If and in so far as any special responsibility of the Governor is involved, he shall in the exercise of his functions, exercise his individual judgment as to the action to be taken.

Provisions as to Instrument of Instructions.

[53. (*1*) The Secretary of State shall lay before Parliament the draft of any Instructions (including any Instructions amending or revoking Instructions previously issued) which it is proposed to recommend His Majesty issue to the Governor of a Province, and no further proceedings shall be taken in relation thereto except in pursuance of an address presented to His Majesty by both Houses of Parliament praying that the Instructions may be issued.

(*2*) The validity of anything done by the Governor of a Province 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.

Superintendence of Governor-General.

[54. (*1*) In so far as the Governor of a Province is by or under this Act required to act in his discretion or to exercise his individual judgment, he shall be under the general control of, and comply with such particular directions, if any, as may from time to time be given to him by the Governor-General in his discretion, but the validity of anything done by a Governor shall not be called in question on the ground that it was done otherwise than in accordance with the provisions of this section.

(*2*) Before giving any directions under this section, the Governor-General shall satisfy himself that nothing in the directions requires the Governor to act in any manner inconsistent with any Instrument of Instructions issued to the Governor by His Majesty.

Advocate-General for Province.

55. (*1*) The Governor of each Province shall appoint a person, being a person qualified to be appointed a judge of a High Court, to be Advocate-General for the Province.

(*2*) It shall be the duty of the Advocate-General to give advice to the Provincial Government upon such legal matters, and to perform such other duties of a legal character, as may from time to time be referred or assigned to him by the Governor.

(*3*) The Advocate-General shall hold office during the pleasure of the Governor, and shall receive such remuneration as the Governor may determine.

[7](*4*) In exercising his powers with respect to the appointment and dismissal of the Advocate-General and with respect to the determination of his remuneration, the Governor shall exercise his individual judgment.

Provisions as to police rules.

[7]**56.** Where it is proposed that the Governor of a Province should be by virtue of any powers vested in him make or amend, or approve the making or amendment of, any rules, regulations or orders relating to any police force whether civil or military, he shall exercise his individual judgment with respect to the proposal, unless it appears to him that the proposal does not relate to or affect the organisation or discipline of that force.

Provisions as to crimes of violence intended to overthrow Government.

[7]**57.** (*1*) If it appears to the Governor of a Province that the peace or tranquillity of the Province is endangered by the operations of any persons committing, or conspiring, preparing or attempting to commit, crimes of violence which, in the opinion of the Governor, are intended to overthrow the government as by law established the Governor may, if he thinks, that the circumstances of the case require him so to do for the purpose of combating those operations, direct that his functions shall, to such extent as may be specified in the direction, be exercised by him in his discretion and, until otherwise provided by a subsequent direction of the Governor, those functions shall to that extent be exercised by him accordingly.

(*2*) While any such direction is in force, the Governor may authorise an official to speak in and otherwise take part in the proceedings of the Legislature, and any official so authorised may speak and take part accordingly in the proceedings of the Chamber of the Legislature, any joint sitting of the Chambers, and any committee of the Legislature of which he may be named a member by the Governor, but shall not be entitled to vote.

(*3*) The functions of the Governor under this section shall be exercised by him in his discretion.

(*4*) Nothing in this section affects the special responsibility of the Governor for the prevention of any grave menace to the peace or tranquillity of the Province or any part thereof.

Sources of certain information not to be disclosed.

[7]**58.** The Governor in his discretion shall make rules for securing that no records or information relating to the sources from which information has been or may be obtained with respect to the operations of persons committing, or conspiring, preparing, or attempting to commit, such crimes as are mentioned in the last preceding section, shall be disclosed or given—

(*a*) by any member of any police force in the Province to another member of that force except in accordance with directions of the Inspector General of Police or Commissioner of Police, as the case may be, or to any other person except in accordance with directions of the Governor in his discretion; or

(*b*) by any other person in the service of the Crown in the Province to any person except in accordance with directions of the Governor in his discretion.

Conduct of business of Provincial Government.

59. (1) All executive action of the Government of a Province shall be expressed to be taken in the name of the Governor.

(2) Orders and other instruments made and executed in the name of the Governor shall be authenticated in such manner as may be specified in rules to be made by the Governor, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Governor.

(3) The Governor shall make rules for the more convenient transaction of the business of the Provincial Government, and for the allocation among ministers of the said business [7][in so far as it is not business with respect to which the Governor is by or under this Act required to act in his discretion.]

[7](4) The rules shall include provisions requiring ministers and secretaries to Government to transmit to the Governor all such information with respect to the business of the Provincial Government as may be specified in the rules, or as the Governor may otherwise require to be so transmitted, and in particular requiring a minister to bring to the notice of the Governor, and the appropriate secretary to bring to the notice of the minister concerned and of the Governor, any matter under consideration by him which involves, or appears to him likely to involve, any special responsibility of the Governor.

[7](5) In the discharge of his functions under sub-section (2), (3) and (4) of this section the Governor shall act in his discretion after consultation with his ministers.

CHAPTER III.

THE PROVINCIAL LEGISLATURE.

General.

Constitution of Provincial Legislature.

60. (1) There shall for every Province be a Provincial Legislature which shall consist of His Majesty, represented by the Governor, and

(*a*) in the Provinces of Madras, Bombay, [Bengal][1] the United Provinces, Bihar [and Assam][1], two Chambers;

(*b*) in other Provinces, one Chamber.

(2) Where there are two Chambers of a Provincial Legislature, they shall be known respectively as the Legislative Council and the Legislative Assembly, and where there is only one Chamber, the Chamber shall be known as the Legislative Assembly.

Composition of Chambers of Provincial Legislature.

61. (1) The Composition of the Chamber of Chambers of the Legislature of a Province shall be such as is specified in relation to that Province in the Fifth Schedule to this Act.

(2) Every Legislative Assembly of every Province, unless sooner dissolved, shall continue for five years [2]from the date appointed for their first meeting and no longer, and the expiration of the said period of five years shall operate as a dissolution of the Assembly.

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1. The words within brackets were omitted by the India (Provisional Constitution) Order, 1947.
2. Under section 1(1) of the India and Burma (Postponement of Elections) Act, 1941 (4 & 5 Geo. 6, ch. 44) the first Legislative Assembly in each Province was to continue until twelve months after the end of the war period, unless it was previously dissolved under section 62 (2). And the expression 'the war period', meant the period for which the Emergency Powers (Defence) Act, 1939. was in force.

(3) Every Legislative Council shall be a permanent body not subject to dissolution but as near as may be one-third of the members thereof shall retire in every third year in accordance with the provision in that behalf made in relation to the Province under the said Fifth Schedule.

Sessions of the Legislature, prorogation and dissolution.

62. (1) The Chamber or Chambers of each Provincial Legislature shall be summoned to meet once at least in every year, and twelve months shall not intervene between their last sitting in one session and the date appointed for their first sitting in the next session.

(2) Subject to the provisions of this section, the Governor may in his discretion from time to time—

(a) summon the Chambers or either Chamber to meet at such time and place as he thinks fit;

(b) prorogue the Chamber or Chambers;

(c) dissolve the Legislative Assembly.

[(3) The Chamber or Chambers shall be summoned to meet for the first session of the Legislature on a day not later than six months after the commencement of this Part of this Act.][1]

Right of Governor to address and send messages to Chambers.

63. (1) The Governor may in his discretion address the Legislative Assembly or, in the case of a Province having a Legislative Council, either Chamber of the Provincial Legislature or both Chambers assembled together, and may for that purpose require the attendance of members.

(2) The Governor may in his discretion send messages to the Chamber or Chambers of the Provincial Legislature, whether with respect to a Bill then pending in the Legislature or otherwise, and a Chamber to whom any message is so sent shall with all convenient dispatch consider any matter which they are required by the message to take into consideration.

Rights of ministers and Advocate-General as respects Chambers.

64. Every minister and the Advocate-General shall have the right to speak in, and otherwise take part in the proceeding of, the Legislative Assembly of the Province or, in the case of a Province having a Legislative Council, both Chambers and any joint sitting of the Chambers, and to speak in, and otherwise take part in the proceedings of, any committee of the Legislature of which he may be named a member, but shall not, by virtue of the section, be entitled to vote.

Officers of Chambers.

65. (1) Every Provincial Legislative Assembly shall as soon as may be, choose two members of the Assembly to be respectively Speaker and Deputy Speaker thereof and, so often as the office of Speaker or Deputy Speaker becomes vacant, the Assembly shall choose another member to be Speaker or Deputy Speaker, as the case may be.

(2) A member holding office as Speaker or Deputy Speaker of an Assembly shall vacate his office if he ceases to be member of the Assembly, may at any time resign his office by writing under his hand addressed to the Governor, and may be removed from his office by a resolution of the Assembly passed by a majority of all the then members of the Assembly; but no resolution for the purpose of this sub-section shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution:

Provided that, whenever the Assembly is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the Assembly after the dissolution.

(*3*) While the office of Speaker is vacant, the duties of the office shall be performed by the Deputy Speaker or, if the office of Deputy Speaker is also vacant, by such member of the Assembly as the Governor may in his discretion appoint for the purpose, and during any absence of the Speaker from any sitting of the Assembly the Deputy Speaker or, if he is also absent, such person as may be determined by the rules of procedure of the Assembly, or, if no such person is present, such other person as may be determined by the Assembly, shall act as Speaker.

(*4*) There shall be paid to the Speaker and the Deputy Speaker of the Legislative Assembly such salaries as may be respectively fixed by Act of the Provincial Legislature and, until provision in that behalf is so made, such salaries as the Governor may determine.

(*5*) In the case of a Province having a Legislative Council, the foregoing provisions of this section [other than the proviso to sub-section (2) thereof] shall apply in relation to the Legislative Council as they apply in relation to the Legislative Assembly, with the substitution of the ititles "President" and "Deputy President" for the titles "Speaker" and "Deputy Speaker" respectively, and with the substitution of references to the council for references to the Assembly.

Voting in Chambers, power of Chambers to act notwithstanding vacancies and quorum.

66. (*1*) Save as in this Act otherwise expressly provided, all questions in a Chamber, or a joint sitting of two Chambers, of a Provincial Legislature shall be determined by a majority of votes of the members present and voting other than the Speaker or President, or person acting as such.

The Speaker or President, or person acting as such shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.

(*2*) A Chamber of a Provincial Legislature shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in a Provincial Legislature shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do, sat or voted or otherwise took part in the proceedings.

(*3*) If at any time during a meeting of a Provincial Legislative Assembly less than one-sixth of the total number of members of the Chamber are present, or if at any time during a meeting of a Provincial Legislative Council less than ten members are present, it shall be the duty of the Speaker or President or person acting as such either to adjourn the Chamber, or to suspend the meeting until at least one-sixth of the members, or, as the case may be, at least ten members, are present.

Provisions as to Members of Legislatures.

Oath of members.

67. Every member of a Provincial Legislative Assembly or Legislative Council shall, before taking his seat, make and subscribe before the Governor, or some person appointed by him, on oath according to that one of the forms set out in the Fourth Schedule to this Act which the member accepts as appropriate in his case.

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3. The words within brackets were omitted by the India (Provisional Constitution) Order, 1947.

Vacation of seats.

68. (*1*) No person shall be a member of both Chambers of a Provincial Legislature and rules made by the Governor exercising his individual judgment shall provide for the vacation by a person who is chosen a member of both Chambers of his seat in one Chamber or the other.

[(*2*) No person shall be a member both of the Federal Legislature and of a Provincial Legislature and if a person is chosen a member both of the Federal Legislature and of a Provincial Legislature, then, at the expiration of such period as may be specified in rules made by the Governor of the Province exercising his individual judgment, that person's seat in the Provincial Legislature shall become vacant, unless he has previously resigned his seat in the Federal Legislature.][1]

(*3*) If a member of a Chamber—

(*a*) becomes subject to any of the disqualifications mentioned in sub-section (1) of the next succeeding section; or

(*b*) by writing under his hand addressed to the Governor resigns his seat, his seat shall thereupon become vacant.

(*4*) If for sixty days a member of a Chamber is without permission of the Chamber absent from all meetings thereof the Chamber may declare his seat vacant:

Provided that in computing the said period of sixty days no account shall be taken of any period during which the Chamber is prorogued, or is adjourned for more than four consecutive days.

Disqualifications of membership.

69. (*1*) A person shall be disqualified for being chosen as, and for being, a member of a Provincial Legislative Assembly or Legislative Council—

(*a*) if he holds any office of profit under the Crown in India, other than an office declared by Act of the Provincial Legislature not to disqualify its holder;

(*b*) if he is an unsound mind and stands so declared by a competent court;

(*c*) if he is an undischarged insolvent;

(*d*) if, whether before or after the commencement of this Part of this Act, he has been convicted or has, in proceedings for questioning the validity or regularity of an election, been found to have been guilty, of any offence or corrupt or illegal practice relating to elections which has been declared by Order in Council or by an Act of the Provincial Legislature, to be an offence or practice entailing disqualification for membership of the Legislature, unless such period has elapsed as may be specified in that behalf if the provisions of that Order or Act;

(*e*) if, [whether before or after the commencement of this Part of this Act][3], he has been convicted of any other offence [by a Court in British India or in a State which is a Federated State][4] and sentenced to transportation or to imprisonment for not less than two years, unless a period of five years, or such less period as the Governor, acting in his discretion, may allow in any particular case, has elapsed since his release;

4. For the words within brackets, the following words were substituted, by *ibid.*— "Before the date of the establishment of the Dominion by court in British India, or on or after that date by a court in a Governor's or Chief Commissioner's Province or an acceding State",

(*f*) if, having been nominated as a candidate for the Federal or any Provincial Legislature or having acted as an election agent of any person so nominated, he has failed to lodge a return of election expenses within the time and in the manner required by any Order in Council made under this Act or by any Act of the [Federal][5] or the Provincial Legislature, unless five years have elapsed from the date by which the return ought to have been lodged or the Governor, acting in his discretion, has removed the disqualification;

Provided that a disqualification under paragraph (f) of this sub-section shall not take effect until the expiration of one month from the date by which the return ought to have been lodged or of such longer period as the Governor, acting in his discretion, may in any particular case allow.

(*2*) A person shall not be capable of being chosen a member of a Chamber of a Provincial Legislature while he is serving a sentence of transporation or of imprisonment for a criminal offence.

(*3*) Where a person who, by virtue of a conviction or a conviction and a sentence, becomes disqualified by virtue of paragraph (d) or paragraph (e) of sub-section (1) of this section is at the date of the disqualification a member of a Chamber, his seat shall, notwithstanding anything in this or the last preceding section, not become vacant by reason of the disqualification until three months have elapsed from the date thereof or, if within those three months an appeal or petition for revision is brought in respect of the conviction or the sentence, until that appeal or petition is disposed of, but during any period which his membership is preserved by this sub-ection, he shall not sit or vote.

(*4*) For the purpose of this section a person shall not be deemed to hold an office of profit under the Crown in India by reason only that he is a minister either for the Federation or for a Province.

Penalty for sitting and voting when not qualified, or when disqualified.

70. If a person sits or votes as a member of a Provincial Legislative Assembly or Legislative Council when he is not qualified or is disqualified for membership thereof, or when he is prohibited from so doing by the provisions of sub-section (3) of the last preceding section, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the Province.

Privileges, etc., of members.

71. (*1*) Subject to the provisions of this Act and to rules and standing orders regulating the procedure of the Legislature, there shall be freedom of speech in every Provincial Legislature, and no member of the Legislature shall be liable to any proceeding in any Court in respect of anything said or any vote given by him in the Legislature or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of a Chamber of such a Legislature of any report, paper, votes or proceedings.

(*2*) In other respects the privileges of members of a Chamber of a Provincial Legislature shall be such as may from time to time be defined by Act of the Provincial Legislature, and, until so defined, shall be such as were

5. This word was substituted by the words 'Dominion', by *ibid.*

immediately before the [commencement of this Part of this Act enjoyed by members of the Legislative Council of the Province.][6]

(*3*) Nothing in any existing Indian law, and, notwithstanding anything in the foregoing provisions of this section, nothing in this Act, shall be construed as conferring, or empowering any Legislature to confer on a Chamber thereof or on both Chambers sitting together or any committee or officer of the Legislature, the status of a court, or any punitive or disciplinary powers other than the power to remove or exclude persons infringing, the rules or standing orders, or otherwise behaving in a disorderly manner.

(*4*) Provision may be made by an Act of the Provincial Legislature for the punishment, on conviction before a Court, of persons who refuse to give evidence or produce documents before a committee of a Chamber when duly required by the chairman of a committee so to do:

Provided that any such Act shall have effect subject to such rules for regulating the attendance before such committees of persons who are, or have been, in the service of the Crown in India, and safeguarding confidential matter from disclosure, as may be made by the Governor exercising his individual judgment.

(*5*) The provisions of sub-sections (1) and (2) of this section shall apply in relation to persons who by virtue of this Act have the right to speak in and otherwise take part in the proceedings of a Chamber as they apply in relation to members of the Legislature.

Salaries and allowances of members.

72. Members of Provincial Legislative Assemblies and Legislative Councils shall be entitled to receive such salaries and allowances as may from time to time be determined by Act of the Provincial Legislature, [and until provision in that respect is so made, allowances at such rates and upon such conditions as were immediately before the commencement of this Part of this Act applicable in the case of members of the Legislative Council of the Province.][7]

Legislative Procedure.

Introduction of Bills, etc.

73. (*1*) Subject to the special provisions of this Part of this Act with respect to financial Bills, a Bill may originate in either Chamber of the Legislature of a Province which has a Legislative Council.

(*2*) A Bill pending in the Legislature of a Province shall not lapse by reason of the prorogation of the Chamber or Chambers thereof.

(*3*) A Bill pending in the Legislative Council of a Province which has not been passed by the Legislative Assembly shall not lapse on a dissolution of the Assembly.

(*4*) A Bill which is pending in the Legislative Assembly of a Province,

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6. For the words within brackets, the following were substituted, by *ibid*.—
'Establishment of the Dominion enjoyed by members of that Chamber, or in the case of West Bengal and East Punjab, by members of the Provincial Legislative Assemblies of Bengal and the Punjab, respectively."

7. The words within brackets were omitted, by *ibid*, and the following Proviso was added—
"Provided that until other provision is so made, members of the Legislative Assemblies of West Bengal and East Punjab shall be entitled to receive salaries and allowances at such rates and upon such conditions as were immediately before the establishment of the Dominion applicable in the case of members of the Legislative Assemblies of Bengal and the Punjab, respectively."

or which having been passed by the Legislative Assembly is pending in the Legislative Council, shall lapse on a dissolution of the Assembly.

Passing of Bills in Provinces having Legislative Councils.

74. (*1*) Subject to the provisions of this section, a Bill shall not be deemed to have been passed by the Chambers of the Legislature of a Province having a Legislative Council, unless it has been agreed to by both Chambers, either without amendments or with such amendments only as are agreed to by both Chambers.

(*2*) If a Bill which has been passed by the Legislative Assembly and transmitted to the Legislative Council is not, before the expiration of twelve months from its reception by the Council, presented to the Governor for his assent, the Governor may summon the Chambers to meet in a joint sitting for the purpose of deliberating and voting on the Bill:

Provided that, if it appears to the Governor that the Bill relates to finance [or affects the discharge of any of his special responsibilities][8], he may summon the Chambers to meet in a joint sitting for the purpose aforesaid notwithstanding that the said period of twelve months has not elapsed.

[The functions of the Governor under the proviso to this sub-section shall be exercised by him in his discretion.][8]

(*3*) If at a joint sitting of the two Chambers summoned in accordance with the provisions of this section the Bill, with such amendments, if any, as are agreed to in joint sitting, is passed by a majority of the total number of members of both Chambers present and voting, it shall be deemed for the purposes of this Act to have been passed by both Chambers:

Provided that at a joint sitting—

(*a*) unless the Bill has been passed by the Legislative Council with amendments and returned to the Legislative Assembly, no amendment shall be proposed to the Bill other than such amendments, if any, as are made necessary by the delay in the passage of the Bill;

(*b*) if the Bill has been so passed and returned by the Legislative Council, only such amendments as aforesaid shall be proposed to the Bill and such other amendments as are relevant to the matters with respect to which the Chambers have not agreed, and the decision of the person presiding as to the amendments which are admissible under this sub-section shall be final.

Assent to Bills.

75. A Bill which has been passed by the Provincial Legislative Assembly or, in the case of a Province having a Legislative Council, has been passed by both Chambers of the Provincial Legislature, shall be presented to the Governor, and the Governer in his discretion shall declare either that he assents in His Majesty's name to the Bill, or that he withholds assent therefrom, or that he reserves the Bill for the consideration of the Governor-General:

Provided that the Governor may in his discretion return the Bill together with a message requesting that the Chamber or Chambers will consider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message and, when a Bill is so returned, the Chamber or Chambers shall reconsider it accordingly.

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8. The words within brackets were omitted, by *ibid*.

Bills reserved for consideration.

76. (*1*) When a Bill is reserved by a Governor for the consideration of the Governor-General, the Governor-General shall in his discretion declare, either that he assents in His Majesty's name to the Bill, or that he withholds assents therefrom, [or that he reserves the Bill for the signification of his Majesty's pleasure thereon][8]:

Provided that the Governor-General may, if he in his discretion thinks fit, direct the Governor to return the Bill to the Chamber, or, as the case may be, the Chambers, of the Provincial Legislature together with such a message as is mentioned in the proviso to the last preceding section and, when a Bill is so returned, the Chamber or Chambers shall reconsider it accordingly and, if it is again passed by them with or without amendment, it shall be presented again to the Governor-General for his consideration.

[(*2*) A Bill reserved for the signification of His Majesty's pleasure shall not become an Act of the Provincial Legislature unless and until, within twelve months from the day on which it was presented to the Governor, the Governor makes known by public notification that His Majesty has assented thereto.][8]

Power of Crown to disallow Acts.

[**77.** Any Act assented to by the Governor or the Governor-General may be disallowed by His Majesty within twelve months from the date of the assent, and where any Act is so disallowed the Governor shall forthwith make the disallowance known by public notification and as from the date of the notification the Act shall become void.][8]

Procedure in Financial matters.

Annual financial statement.

78. (*1*) The Governor shall in respect of every financial year cause to be laid before the Chamber or Chambers of the Legilslature as statement of the estimated receipts and expenditure of the Province for that year, in this Part of this Act referred to as the "annual financial statement".

(*2*) The estimates of expenditure embodied in the annual financial statement shall show separately—

(*a*) The sums required to meet expenditure described by this Act as expenditure charged upon the revenues of the Province; and

(*b*) the sums required to meet other expenditure proposed to be made from the revenues of the Province,

and shall distinguish expenditure on revenue account [from other expenditure, and indicate the sums, if any, which are included solely because the Governor has directed their inclusion as being necessary for the due discharge of any of his special responsibilities.][8]

(*3*) The following expenditure shall be expenditure charged on the revenues of each Province—

(*a*) the salary and allowances of the Governor and other expenditure relating to his office for which provision is [required to be made by Order in Council][9];

(*b*) debt charges for which the Province is liable, including interest, sinking fund charges and redemption charges, and other expenditure relating to the raising of loans and the service and redemption of debt;

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9. These words were substituted by the following, by *ibid.*—
"Made by or under the Third Schedule to the Act."

(*c*) the salaries and allowances of ministers, and of the Advocate-General:

(*d*) expenditure in respect of the salaries and allowances of judges of any High Court;

(*f*) any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal;

(*g*) any other expenditure declared by this Act or any Act of the Provincial Legislature to be so charged.

[(*4*) Any question whether any proposed expenditure falls within a class of expenditure charged on the revenues of the Province shall be decided by the Governor in his discretion.][8]

Procedure in Legislature with respect to estimates.

79. (*1*) So much of the estimates of expenditure as relates to expenditure charged upon the revenues of a Province shall not be submitted to the vote of the Legislative Assembly, but nothing in this sub-section shall be construed as preventing the discussion in the Legislature of those estimates, other than estimates relating to expenditure referred to in paragraph (a) of sub-section (3) of the last preceding section.

(*2*) So much of the said estimates as relates to other expenditure shall be submitted, in the form of demands for grants, to the Legislative Assembly, and the Legislative Assembly shall have power to assent, or to refuse to assent, to any demand, or to assent to a demand subject to a reduction of the amount specified therein.

(*3*) No demand for a grant shall be made except on the recommendation of the Governor.

Authentication of schedule of authorised expenditure.

80. (*1*) The Governor shall authenticate by his signature a schedule specifying—

(*a*) the grants made by the Assembly under the last preceding section;

(*b*) the several sums required to meet the expenditure charged on the revenues of the Province but not exceeding, in the case of any sum, the sum shown in the statement previously laid before the Chamber or Chambers:

[Provided that, if the Assembly have refused to assent to any demand for grant or have assented to such a demand subject to a reduction of the amount specified therein, the Governor may, if in his opinion the refusal or reduction would affect the due discharge of any of his special responsibilities, include in the schedule such additional amount, if any, not exceeding the amount of the rejected demand or the reduction, as the case may be, as appears to him necessary in order to enable him to discharge that responsibility].[10]

(*2*) The schedule so authenticated shall be laid before the Assembly but shall not be open to discussion or vote in the Legislature.

(*3*) Subject to the provisions of the next succeeding section, no expenditure from the revenues of the province shall be deemed to be duly authorised unless it is specified in the schedule so authenticated.[11]

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10. The words within brackets were omitted, by *ibid.*

11. After sub-sec. (3), the following Proviso was added, by *ibid.*—

'Provided that expenditure from the revenues of the Province of West Bengal or East Punjab during the period beginning with the 15th day of August 1947 and ending with the 31st day of March 1948 may be authorised or ratified by general or special order of the Governor."

Supplementary statements of expenditure.

81. If in respect of any financial year further expenditure from the revenues of the Province becomes necessary over and over the expenditure authorised for that year, the Governor shall cause to be laid before the Chambers a supplementary statement showing the estimated amount of the expenditure, and the provisions of the preceding sections shall have effect in relation to that statement and that expenditure as they have effect in relation to the annual financial statement and the expenditure mentioned therein.

Special provisions as to financial Bills.

82. (*1*) A Bill or amendment making provision

(*a*) for imposing or increasing any tax; or

(*b*) for regulating the borrowing of money or the giving of any guarantee by the Province, or for amending the law with respect to any financial obligations undertaken or to be undertaken by the Province; or

(*c*) for declaring any expenditure to be expenditure charged on the revenues of the Province, or for increasing the amount of any such expenditure, shall not be introduced or moved except the recommendation of the Governor and a Bill making such provision shall not be introduced in a Legislative Council.

(*2*) A Bill or amendment shall not be deemed to make provision for any of the purposes aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties or for the demand and payment of fees for licences or fees for services rendered.

(*3*) A Bill which, if enacted and brought into operation, would involve expenditure from the revenues of a Province shall not be passed by a Chamber of the Legislatures unless the Governor has recommended to that Chamber the consideration of the Bill.

Provisions with respect to certain educational grants.

[**83.** (*1*) If in the last complete financial year before the commencement of this Part of this Act a grant for the benefit of the Anglo-Indian and European communities or either of them was included in the grants made in any Province for education, then in each subsequent financial year, not being a year in which the Provincial Legislative Assembly otherwise resolve by a majority which includes at least three-fourths of the members of the Assembly, a grant shall be made for the benefit of the said community or communities not less in amount than the average of the grants made for its or their benefit in the ten financial years ending on the thirty first day of March, nineteen hundred and thirty-three:

Provided that, if in any financial year the total grant for education in the Province is less than the average of the total grants for education in the Province in the said ten financial years, then, whatever fraction the former may be of the latter, any grant made under this sub-section in that financial year for the benefit of the said community or communities need not exceed that fraction of the average of the grants made for its or their benefit in the said ten financial years.

In computing for the purposes of this sub-section the amount of any grants, grants for capital purposes shall be included.

(*2*) The provisions of this section shall cease to have effect in a Province if at any time the Provincial Legislative Assembly resolve by a

majority which includes at least three-fourths of the members of the Assembly that those provisions shall cease to have effect.

(*3*) Nothing in this section affects the special responsibility of the Governor of a Province for the safeguarding of the legitimate interests of minorities].[12]

Procedure generally.

84. (*1*) A Chamber of a Provincial Legislature may make rules for regulating, subject to the provisions of this Act, their procedure and the conduct of their business:

Rules of procedure.

[Provided that, as regards either a Legislative Assembly or a Legislative Council, the Governor shall in his discretion, after consultation with the Speaker or the President, as the case may be, make rules—

(*a*) for regulating the procedure of, and the conduct of business in, the Chamber in relation to any matter which affects the discharge of his functions in so far as he is by or under this Act required to act in his discretion or to exercise his individual judgment;

(*b*) for securing the timely completion of financial business;

(*c*) for prohibiting the discussion of or the asking of questions on, any matter connected with any Indian State unless the Governor in his discretion is satisfied that the matter affects the interests of the Provincial Government or of a British subject ordinarily resident in the Province, and has given his consent to the matter being discussed, or to the question being asked;

(*d*) for prohibiting, save with the consent of the Governor in his discretion—

(i) the discussion of or the asking of questions on any matter connected with relations between His Majesty or the Governor-General and any foreign State or Prince; or

(ii) the discussion, except in relation to estimates of expenditure, of or the asking of questions on, any matters connected with the tribal areas or arising out of or affecting the administration of an excluded area; or

(iii) the discussion of, or the asking of questions on, the personal conduct of the Ruler of any Indian State or of a member of the ruling family thereof;

and, if and in so far as any rule so made by the Governor is inconsistent with any rule made by a Chamber, the rule made by the Governor shall prevail].[12]

(*2*) In a Province having a Legislative Council the Governor, after consultation with the Speaker and the President, may make rules as to the procedure with respect to joint sittings of, and communications between, the two Chambers.

The said rules shall make such provision for the purposes specified in the proviso to the preceding sub-section as the Governor in his discretion may think fit.

12. The words within brackets were omitted, by *ibid.*

(*3*) Until rules are made under this section the rules of procedure and standing orders in force immediately before the commencement of this Part of this Act with respect to the Legislative Council of the Province, shall have effect in relation to the Legislature of the Province, subject to such modifications and adaptations as may be made therein by the Governor acting in his discretion.

(*4*) At a joint sitting of two Chambers the President of the Legislative Council, or in his absence such person as may be determined by rules of procedure made under this section, shall preside.

English to be used in Provincial Legislature.

[**85.** All proceedings in the legislature of a Province shall be conducted in the English language:

Provided that the rules of procedure of the Chamber or Chambers, and the rules, if any, with respect to join sittings, shall provide for enabling persons unacquainted, or not sufficiently acquainted, with the English language to use another language].[12]

Restrictions on discussion in the Legislature.

86. (*1*) No discussion shall take place in a Provincial Legislature with respect to the conduct of any judge of the Federal Court or of a High Court in the discharge of his duties.

In this sub-section the reference to a High Court shall be construed as including a reference to a court in a Federated State which is a High Court for any of the purposes of Part IX of this Act.

[(*2*) If the Governor in his discretion certifies that the discussion of a Bill introduced or proposed to be introduced in the Provincial Legislature, or of any specified clause of a Bill or of any amendment moved or proposed to be moved to a Bill, would affect the discharge of his special responsibility for the prevention of any grave menace to the peace or tranquility of the Province or any part thereof, he may in his discretion direct that no proceedings, or no further proceedings, shall be taken in relation to the Bill, clause or amendment, and effect shall be given to the direction].[13]

Courts to inquire into proceedings of the Legislature.

87. (*1*) The validity of any proceedings in a Provincial Legislature shall not be called in question on the ground of any alleged irregularity of procedure.

(*2*) No officer or other member of a Provincial Legislature in whom powers are vested by or under this Act for regulating procedure or the conduct of business, or for maintaining order, in the Legislature shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.

CHAPTER IV.

LEGISLATIVE POWERS OF GOVERNOR.

Power of Governor to promulgate ordinances during recess of Legislature.

88. (*1*) If at any time when the Legislature of a Province is not in session the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such ordinances as the circumstances appear to him to require;

[1][Provided that the Governor—

(*a*) shall exercise his individual judgment as respects the promulgation of any ordinance under this section, if—

(i) a Bill containing the same provisions would under this Act have required his or the Governor-General's previous sanction to the introduction thereof into the Legislature; or

(ii) an Act of the Provincial Legislature containing the same provisions would under this Act have been invalid unless, having been reserved for the consideration of the Governor-General or for the signification of His Majesty's pleasure, it had received the assent of the Governor-General or of His Majesty; and

(*b*) shall without instructions from the Governor-General acting in his discretion, promulgate any such ordinance if—

(i) a Bill containing the same provisions would under this Act have required the Governor-General's previous sanction for the introduction thereof into the Legislature; or

(ii) he would have deemed it necessary to reserve a Bill containing the same provisions for the consideration of the Governor-General; or

(iii) an Act of the Provincial Legislature containing the same provisions would under this Act have been invalid unless, having been reserved for the consideration of the Governor-General or for the signification of His Majesty's pleasure, it had received the assent of the Governor-General or of His Majesty.]

(*2*) An ordinance promulgated under this section shall have the same force and effect as an Act of the Provincial Legislature assented to by the Governor but every such ordinance—

(*a*) shall be laid before the Provincial Legislature and shall cease to operate at the expiration of six weeks from the reassembly of the Legislature, or if a resolution disapproving it is passed by the Legislative Assembly and agreed to by the Legislative Council, if any, upon the passing of the resolution or, as the case may be, on the resolution being agreed to by the Council;

(*b*) shall be subject to the provisions of this Act relating to the power of His Majesty to disallow Acts as if it were an Act of the Provincial Legislature assented to by the Governor; and

(*c*) may be withdrawn at any time by the Governor.

(*3*) If and so far as an ordinance under this section makes any provision which would not be valid if enacted in an Act of the Provincial Legislature assented to by the Governor, it shall be void.

[2][Provided that, for the purposes of the provisions of this Act relating to the effect of an Act of a Provincial Legislature which is repugnant to

1. *Substituted* by the India and Burma (Miscellaneous Amendments) Act, 1940 (3 & 4 Geo. 6, ch. 5) s. 4.

This Proviso, again, was substituted by the India (Provisional Constitution) Order, 1947, as follows—

"Provided that the Governor shall not, without instructions from the Governor-General, promulgate any such Ordinance if an Act of the Provincial Legislature containing the same provisions would under this Act have been invalid unless, having been reserved for the consideration of the Governor-General, it had received assent of the Governor-General."

2. *Inserted, ibid.*

an Act of the Federal Legislature or an existing Indian Law with respect to a matter enumerated in the Concurrent Legislative List, an ordinance promulgated under this section in pursuance of instructions from the Governor-General acting in his discretion shall be deemed to be an Act of the Provincial Legislature which has been reserved for the consideration of the Governor-General and assented to by him].

Power of Governor to promulgate ordinances at any time with respect to certain subjects.

[3]**89.** (*1*) If at any time the Governor of a Province is satisfied that circumstances exist which render it necessary for him to take immediate action for the purpose of enabling him satisfactorily to discharge his functions in so far as he is by or under this Act required in the exercise thereof to act in his discretion, or to exercise his individual judgment, he may promulgate such ordinances as in his opinion the circumstances of the case require.

(*2*) An ordinance promulgated under this section shall continue in operation for such period not exceeding six months as may be specified therein, but may by a subsequent ordinance be extended for a further period not exceeding six months.

(*3*) An ordinance promulgated under this section shall have the same force and effect as an Act of the Provincial Legislature assented to by the Governor but every such ordinance—

(*a*) shall be subject to the provisions of this Act relating to the power of His Majesty to disallow Acts as if it were an Act of the Provincial Legislature;

(*b*) may be withdrawn at any time by the Governor; and

(*c*) if it is an ordinance extending a previous ordinance for a further period, shall be communicated forthwith through the Governor-General to the Secretary of State and shall be laid by him before each House of Parliament.

(*4*) If and so far as an ordinance under this section makes any provision which would not be valid if enacted in an Act of the Provincial Legislature, it shall be void:

Provided that for the purposes of the provisions of this Act relating to the effect of an Act of a Provincial Legislature which is repugnant to an Act of the Federal Legislature, [4][or an existing Indian Law with respect to a matter enumerated in the Concurrent Legislative List], an ordinance promulgated under this section shall be deemed to be an Act of the Provincial Legislature which has been reserved for the consideration of the Governor-General and assented to by him.

(*5*) The functions of the Governor under this section shall be exercised by him in discretion but he shall not exercise any of his powers thereunder except with the concurrence of the Governor-General in his discretion:

Provided that, if it appears to the Governor that it is impracticable to obtain in time the concourrence of the Governor-General, he may promulgate as ordinance without the conrurrence of the Governor-General, but in that case the Governor-General in his discretion may direct the Governor to withdraw the ordinance and the ordinance shall be withdrawn accordingly.

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3. Omitted by the India (Provisional Constitution) Order, 1947.
4. *Inserted* by the India and Burma (Miscellaneous Amendments) Act, 1940 (3 & 4 Geo. 6, ch. 5), s. 4.

Power of Governor in certain circumstances to enact Acts.

[3]**90.** (*1*) If at any time it appears to the Governor that, for the purpose of enabling him satisfactorily to discharge his functions in so far as he is by or under this Act required in the exercise thereof to act in his discretion or to exercise his individual judgment, it is essential that provision should be made by legislation, he may by message to the Chamber or Chambers of the Legislature explain the circumstances which in his opinion render legislation essential, and either—

(*a*) enact forthwith as a Governor's Act a Bill containing such provisions as he considers necessary; or

(*b*) attach to his message a draft of the Bill which he considers necessary.

(*2*) Where the Governor takes such action as is mentioned in paragraph (b) of the preceding sub-section, he may, at any time after the expiration of one month, enact, as a Governor's Act, the Bill proposed by him to the Chamber or Chambers either in the form of the draft communicated to them, or with such amendments as he deems necessary, but before so doing he shall consider any address which may have been presented to him within the said period by the Chamber or either of the Chambers with reference to the Bill or to amendments suggested to be made therein.

(*3*) A Governor's Act shall have the same force and effect, and shall be subject to disallowance in the same manner, as an Act of the Provincial Legislature assented to by the Governor and, if and, so far as it makes any provision which would not be valid if enacted in an Act of that Legislature, shall be void:

Provided that, for the purposes of the provisions of this Act relating to the effect of an Act of a Provincial Legislature which is repugnant to an Act of the Federal Legislature [5][or an existing Indian Law with respect to a matter enumerated in the Concurrent Legislative List], a Governor's Act shall be deemed to be an Act reserved for the consideration of the Governor-General and assented to by him.

(*4*) Every Governor's Act shall be communicated forthwith through the Governor-General to the Secretary of State and shall be laid by him before each House of Parliament.

(*5*) The functions of the Governor under this section shall be exercised by him in his discretion, but he shall not exercise any of his powers thereunder except with the concurrence of the Governor-General in his discretion.

CHAPTER V.

EXCLUDED AREAS AND PARTIALLY EXCLUDED AREAS.

Excluded areas and partially excluded areas.

[1]**91.** (*1*) In this Act the expressions "excluded areas" and partially "excluded area mean respectively such areas as His Majesty may by Order in Council[2] declare to be excluded areas or partially excluded areas.

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5. *Inserted* by the India and Burma (Miscellaneous Amendments) Act, 1940 (3 & 4 Geo. VI, ch. 5), s. 4.

1. This section was substituted as follows, by the India (Provisional Constitution) Order, 1947—

"In this Act, the expression 'excluded area' and 'partially excluded area' mean respectively such areas as were excluded or partially excluded areas immediately before the establishment of the Dominion."

2. *See* the Government of India (Excluded and Partially Excluded Areas) Order, 1936 [3-3-1936].

The Secretary of State shall lay the draft of the Order which it is proposed to recommend His Majesty to make under this sub-section before Parliament within six months from the passing of this Act.

(*2*) His Majesty may at any time by order in Council—

(*a*) direct that the whole or any specified part of an excluded area shall become, or become part of, a partially excluded area;

(*b*) direct that the whole or any specified part of a partially excluded area shall cease to be a partially excluded area or a part of such an area;

(*c*) alter, but only by way of rectification of boundaries, and excluded or partially excluded area;

(*d*) on any alteration of the boundaries of a Province, or the creation of a new Province, declare any territory not previously in any Province to be, or to form part of, an excluded area or a partially excluded area, and any such Order may contain such incidental and consequential provisions as appear to His Majesty to be necessary and proper, but save as aforesaid the Order in Council made under sub-section (1) of this section shall not be varied by any subsequent Order.

Administration of excluded areas and partially excluded areas.

92. (*1*) The executive authority of a Province extends to excluded and partially excluded areas therein, but notwithstanding anything in this Act, no Act of the Federal Legislature or of the Provincial Legislature, shall apply to an excluded area or a partially excluded area, unless the Governor by public notification so directs; and the Governor in giving such a direction with respect to any Act may direct that the Act shall in its application to the areas, or to any special part thereof, have effect subject to such exceptions or modifications as he thinks fit.

(*2*) The Governor may make regulations for the peace and good government of any area in a Province which is for the time being an excluded area, or a partially excluded areas, and any regulations so made may repeal or amend any Act of the Federal Legislature or of the Provincial Legislature, or any existing Indian law, which is for the time being applicable to the area in question.

Regulations made under this sub-section shall be submitted forthwtih to the Governor-General and until assented to by him in his discretion shall have no effect, [and the provisions of this Part of this Act with respect to the power of His Majesty to disallow Acts shall apply in relation to any such regulations assented to by the Governor-General as they apply in relation to Acts of a Provincial Legislature assented to by him].[3]

[(*3*) The Governor shall, as respects any area in a Province which is for the time being an excluded area, exercise his functions in his discretion].[3]

CHAPTER VI.

PROVISIONS IN CASE OF FAILURE OF CONSTITUTIONAL MACHINERY.

Power of Governor to issue Proclamations.

[1]**93.** (*1*) If at any time the Governor of a Province is satisfied that a situation has arisen in which the government of the Province cannot be carried on in accordance with the provisions of this Act, he may by Proclamation—

3. Omitted by the India (Provisional Constitution) Order 1947.
1. Omitted by the India (Provisional Constitution) Order, 1947.

(*a*) declare that his functions shall, to such extent as may be specified in the Proclamation, be exercised by him in his discretion;

(*b*) assume to himself all or any of the powers vested in or exercisable by any Provincial body or authority;

and any such Proclamation may contain such incidental and consequential provisions as may appear to him to be necessary or desirable for giving effect to the objects of the Proclamation, including provisions for suspending in whole or in part the operation of any provisions of this Act relating to any Provincial body or authority:

Provided that nothing in this sub-section shall authorise the Governor to assume to himself any of the powers vested in or exercisable by a High Court, or to suspend, either in whole or in part, the operation of any provision of this Act relating to High Courts.

(*2*) Any such Proclamation may be revoked or varied by a subsequent Proclamation.

(*3*) A Proclamation under this section—

(*a*) shall be communicated forthwith to the Secretary of State and shall be laid by him before each House of Parliament;

(*b*) unless it is a Proclamation revoking a previous Proclamation, shall cease to operate at the expiration of six months;

Provided that, if and so often as a resolution approving the continuance in force of such a Proclamation is passed by both Houses of Parliament, the Proclamation shall, unless revoked, continue in force for a further period of twelve months from the date on which under this subsection it would otherwise have ceased to operate, but no such Proclamation shall in any case remain in force for more than three years.[2]

(*4*) If the Governor by a Proclamation under this section, assumes to himself any power of the Provincial Legislature to make laws, any law made by him in the exercise of that power shall, subject to the terms thereof, continue to have effect until two years have elapsed from the date on which the Proclamation ceases to have effect, unless sooner repealed or re-enacted by Act of the appropriate Legislature, and any reference in this Act to Provincial Acts, Provincial laws, or Acts or laws of a Provincial Legislature shall be construed as including a reference to such a law.

(*5*) The functions of the Governor under this section shall be exercised by him in his discretion and no Proclamation shall be made by a Governor under this section without the concurrence of the Governor-General in his discretion.

PART IV[1]

THE CHIEF COMMISSIONERS' PROVINCES.

Chief Commissioners' Provinces.

94. (*1*) The following shall be the Chief Commissioners' Provinces, that is to say, the heretofore existing Chief Commissioners' Provinces of [British Baluchistan][2], Delhi, Ajmer-Merwara, Coorg and the Andaman

2. For extension of Proclamation during war period, *see* the India and Burma (Temporary and Miscellaneous Provisions) Act, 1942 (5 & 6 Geo. 6, Ch. 39), S. 1.

1. This Part came into force on 1-4-1937, under Government of India (Commencement and Transitory Provisions) Order, 1936, para 3.

2. Omitted by the India (Provisional Constitution) Order, 1947.

and Nicobar Islands, the area known as Panth Piploda, and such other Chief Commissioners' Provinces as may be created under this Act.

[(2) Aden shall cease to be part of India].[2]

(3) A Chief Commissioner's Province shall be administered by the Governor-General acting, to such extent as he thinks fit, through a Chief Commissioner to be appointed by him in his discretion.

British Baluchistan.

[2][**95.** (1) In directing and controlling the administration of British Baluchistan, the Governor-General shall act in his discretion.

(2) The executive authority of the Federation extends to British Baluchistan as it extends to other Chief Commissioner's Provinces, but notwithstanding anything in this Act, no Act of the Federal Legislature shall apply to British Baluchistan unless the Governor-General in his discretion by public notification so directs, and the Governor-General in giving such a direction with respect to any Act may direct that the Act shall in its application to the Province, or to any specified part thereof, have effect subject to such exceptions or modifications as he thinks fit.

(3) The Governor-General may in his discretion make regulations for the peace and good government of British Baluchistan, and any regulations so may made repeal or amend any Act of the Federal Legislature or any existing Indian law which is for the time being applicable to the Province and, when promulgated by the Governor-General, shall have the same force and effect as an Act of the Federal Legislature which applies to the Province.

The provisions of Part II of this Act relating to the power of His Majesty to disallow Acts shall apply in relation to any such regulations as they apply in relation to Acts of the Federal Legislature assented to by the Governor-General.]

The Andaman and Nicobar Islands.

[3]**96.** The provisions of sub-section (3) of the last preceding section shall apply in relation to the Andaman and Nicobar Islands as they apply in relation to British Baluchistan.

Coorg.

97. Until other provision is made by [4][His Majesty in Council], the constitution, powers and functions of the Coorg Legislative Council, and the arrangements with respect to revenues collected in Coorg and expenses in respect of Coorg, shall continue unchanged.

Provisions as to police rules &c., and as to crimes of violence intended to overthrow the Government.

[2]**98.** The provisions of Part III of this Act with respect to police rules and with respect to crimes of violence intended to overthrow the government, including the provisions thereof relating to the non-disclosure of certain records and information, shall apply in relation to Chief Commissioners' Provinces as they

3. S. 96 was substituted, by *ibid.*, as follows—
"96. The Andaman and Nicobar Islands.—The Governor-General may make regulations for the peace and good government of the Andaman and Nicobar Islands, and any regulations so made may repeal or amend any Act of the Dominion Legislature or any existing law which is for the time being applicable to the Province, and, when promulgated by the Governor-General, shall have the same force and effect as an Act of the Dominion Legislature which applies to the Province."

4. These words were substituted, by *ibid.*, by the words—'or in accordance with a law made by the Constituent Assembly under sub-section (1) of s. 8 of the Indian Independence Act, 1947".

apply in relation to Governor's Provinces, with the substitution for references to the Governor and the Chamber or Chambers of the Provincial Legislature of references to the Governor-General and the Chamber of the Federal Legislature.

PART V[1]

LEGISLATIVE POWERS.

CHAPTER I.

DISTRIBUTION OF POWERS.

Extent of Federal and Provincial laws.

99. (*1*) Subject to the provisions of this Act, the Federal Legislature may make laws [for the whole or any part of British India or for any Federated State][2], and a Provincial Legislature may make laws for the Province or for any part thereof.

[3][(*2*) Without prejudice to the generality of the powers conferred by the preceding sub-section, no Federal law shall, on the ground that it would have extra territorial operation, be deemed to be invalid in so far as it applies—

(*a*) to British subjects and servants of the Crown in any part of India or

(*b*) to British subjects who are domiciled in any part of India wherever they may be; or

(*c*) to, or to persons on, ships or aircraft registered in British India or any Federated State wherever they may be; or

(*d*) in the case of a law with respect to a matter accepted in the Instrument of Accession of a Federated State as a matter with respect to which the Federal Legislature may make laws for that State, to subjects of that State wherever they may be; or

(*e*) in the case of a law for the regulation or discipline of a naval, military, or air force raised in British India, to members of, and persons attached to, employed with or following, that force, whenever they may be.]

Subject-matter of Federal and Provincial laws.

100. (*1*) Notwithstanding anything in the two next succeeding sub sections, the Federal Legislature has and a Provincial Legislature has not, power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule to this Act (hereinafter called the "Federal Legislative List").

(*2*) Notwithstanding anything in the next succeeding sub-section, the Federal Legislature, and, subject to the preceding sub-section, a Provincial Legislature also, have power to make laws with respect to any of the matters enumerated in List III in the said Schedule (hereinafter) called the "Concurrent Legislative List").

(*3*) Subject to the two preceding sub-sections the Provincial Legislature has, and the Federal Legislature has not, power to make laws for a Province or any part thereof with respect to any of the matters enumerated in List II in the said Schedule (hereinafter called the "Provincial Legislative List").

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1. This part came into force on 1st April 1937. *See* the Government of India (Commencement and Transitory Provisions) Order, 1936, para 3.
2. These words were substituted by *ibid.*, by the words—"(including laws having extra-territorial operation) for the whole or any part of the Dominion".
3. Omitted, by *ibid.*

(*4*) The Federal Legislature has power to make laws with respect to matters enumerated in the Provincial Legislative List except for a Province or any part thereof.

Extent of power to legislate for States.

101. Nothing in this Act shall be constructed as empowering the Fedelal Legislature to make laws for a Federated State otherwise than in accordance with the Instrument of Accessions of that State and any limitation contained therein.

Power of Federal Legislature to legislate if an emergency is proclaimed.

102. (*1*) Notwithstanding anything in the preceding sections of this chapter, the Federal Legislature shall, if the Governor-General has in his discretion declared by Proclamation (in this Act rtferred to as a "Proclamation (in this Act referred to as a "Proclamation of Emergency") that a grave emergency exists whereby the security of India is threatened, whether by war or internal disturbance, have power to make laws for a Province or any part thereof with respect to any of the matters enumerated in the Provincial Legislative List [4][or to make laws, whether or not, for a Province or any part thereof, with respect to any matter not enumedated in any of the lists in the Seventh Schedule to this Act.]

Provided that no Bill or amendment for the purposes aforesaid shall be introduced or moved without the previous sanction of the Governor-General in his discretion, and the Governor-General shall not give his sanction unless it appears to him that the provision proposed to be made is a proper provision in view of the nature of the emergency.

(*2*) Nothing in this section shall restrict the power of a Provincial Legislature to make any law which under this Act it has power to make, but if any provision of a Provincial law in repugnant to any provision of a Federal law which the Federal Legislature has under this section power to make, the Federal law, whether passed before or after the Provincial law, shall prevail, and the Provincial law shall to the extent of the repugnancy, but so long only as the Federal law continues to have effect, be void.

[5][(*3*) A Proclamation of Emergency—

(*a*) mav be revoked by a subsequent Proclamation;

(*b*) shall be communicated forthwith to the Secretary of State and shall be laid by him before each House of Parliament; and

(c) shall cease to operate at the expiration of six months, unless before the expiration of that period it has been approved by Resolutions of both Houses of Parliament.]

(*4*) A law made by the Federal Legislature which that Legislature would not but for the issue of a Proclamation of Emergency have been competent to make [6][shall, to the extent of the incompetency, cease to have effect] on the expiration of a period of six months after the Proclamation

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4. *Inserted* by the India (Proclamations of Emergency) Act, 1946 (3 and 10 Geo. 6, Ch. 23), S. 1. The Act shall be deemed to have come into operation on the commencement of Part III of the Government of India Act. (See s. 2 of the 1946 Act).
5. For sub-sec. (3), the following was substituted, by the India (Provisional Constitution) Order, 1947—
"A Proclamation of Emergency may be revoked by a subsequent Proclamation".
6. Section 5 of the India (Central Government and Legislature) Act, 1946 (9 & 10 Geo. VI, Ch. 39), by which these words are *substituted*, runs as follows:—

has ceased to operate, except as respects things done or omitted to be done before the expiration of the said period.

[7][(5) A Proclamation of Emergency declaring that the security of India is threatened by war or by internal disturbance may be made before the actual occurrence of war or of any such disturbance if the Governor-General in his discretion is satisfied that there is imminent danger thereof.]

Power of Federal Legislature to legislate for two or more Provinces by consent.

103. If it appears to the Legislature of two or more Provinces to be desirable that any of the matters enumerated in the Provincial Legislative List should be regulated in those Provinces by Act of the Federal Legislature, to pass an Act for regulating that matter accordingly, but any Act so passed may, as respects any Province to which it applies, be amended or repealed by an Act of the Legislature of that Province.

Residual powers of legislation.

104. (*1*) The Governor-General may by public notification empower either the Federal Legislature or a Provincial Legislature to enact a law with respect to any mattter not enumerated in any of the Lists in the Seventh Schedule to this Act, including a law imposing a tax not mentioned in any such list, and the executive authority of the Federation or of the Province, as the case may be, shall extend to the administration of any law so made, unless the Governor-General otherwise directs.

[8](*2*) In the discharge of his functions under this section the Governor-General shall act in his discretion.]

Application of Naval Discipline Act to Indian naval forces.

[8][**105.** (*1*) Without prejudice to the provisions of this Act with respect to the legislative powers of the Federal Legislature, provision may be made by Act of that Legislature for applying the Naval Discipline Act to the Indian naval forces and, so long as provision for that purpose is made either by an Act of the Federal Legislature or by an existing Indian law, the Naval Discipline Act as so applied shall have effect as if references therein to His Majesty's navy and His Majesty's ships included references to His Majesty's Indian navy and the ships thereof, subject however:—

(*a*) in the application of the said Act to the forces and ships of the Indian navy and to the trial court martial of officers and men belonging thereto, to such modifications and adaptations, if any, as may be, or may have been made by the Act of the Federal or Indian Legislature to adapt the said Act to the circumstances of India, including such adaptations as may be, or may have been, so made for the purpose of authorising or requiring anything which under the said Act is to be done

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"A law made by the Indian Legislature whether before or after the passing of this Act, during the continuance in force of the proclamation of Emergency being a law which that Legislature would not, but for the issue of such a Proclamation, have been competent to make, shall not cease to have effect as required by sub-section (4) of section one hundred and two of the Government of India Act, 1935, except to the extent to which the said Legislature would not, but for the issue of that Proclamation, have been competent to make it, and accordingly, in the said sub-section (4) for the words "shall cease to have effect" there shall be substituted the words "shall, to the extent of the incompetency, cease to have effect."

7. *Inserted* by the Government of India (Amendment) Act, 1939 (2 & 3 Geo. 6, Ch. 66), s. 1, (*effective* form 1-4-1937) *See* s. 2(2), *ibid.*

8. Omitted by the India (Provisional Constitution) Order, 1947.

by or to the Admiralty, or the Secretary of the Admiralty, to be done by or to the Governor-General, or some person authorised to act on his behalf; and

(*b*) in the application of the said Act to the forces and ships of His Majesty's navy other than those of the Indian navy, to such modifications and adaptations as may be made, or may have been made under section sixty-six of the Government of India Act, by His Majesty in Council for the purpose of regulating the relations of those forces and ships to the forces and the ships of the Indian navy.

(*2*) Notwithstanding anything in this Act or in any Act of any Legislature in India, where any forces and ships of the Indian navy have been placed at the disposal of the Admiralty, the Naval Discipline Act shall have effect as if references therein to His Majesty's navy and his Majesty's ships included references to His Majesty's Indian navy and the ships thereof, without any such modifications or adaptations as aforesaid.

Provisions as to legislation for giving effect to international agreements.

106. (*1*) The Federal Legislature shall not by reason only of the entry in the Federal Legislative List relating to the implementing of treaties and agreements with other countries have power to make any law for any Province except with the previous consent of the Governor, or for a Federated State except with the previous consent of the Ruler thereof.

(*2*) So much of any law as is valid only by virtue of any such entry as aforesaid may be repealed by the Federal Legislature and may, on the treaty or agreement in question ceasing to have effect, be repealed as respects any Province or State by a law of that Province or State.

(*3*) Nothing in this section applies in relation to any law which the Federal Legislature has power to make for a Province or as the case may be, a Federated State, by virtue of any other entry in the Federal or the Concurrent Legislative List as well as by virtue of the said entry.

Inconsistency between Federal laws and Provincial or State laws.

107. (*1*) If any provision of a Provincial law is repugnant to any provision of a Federal law which the Federal Legislature is competent to enact or to any provision of an existing Indian law with respect to one of the matters enumerated in the Concurrent Legislative List, then, subject to the provisions of this section, the Federal law, whether passed before or after the Provincial law, or as the case may be, the existing Indian law, shall prevail and the Provincial law shall, to the extent of the repugnancy, be void.

(*2*) Where a Provincial law with respect to one of the matters enumerated in the Concurrent Legislative List contains any provision repugnant to the provisions of an earlier Federal law or an existing Indian law with respect to that matter, then, if the Provincial law, having been reserved for the consideration of the Governor-General [or for the signification of His Majesty's pleasure][9] has received the assent of the Governor-General or for the signification of His Majesty's pleasure has received the assent of the Governor-General or of His Majesty, the Provincial law shall in that Province prevail, but nevertheless the Federal Legislature may at any time enact further legislation with respect to the same matter.

9. Omitted, by *ibid.*

Provided that no Bill or amendment for making any provision repugnant to any Provincial law, which, having been so reserved has received the assent of the Governor-General or of His Majesty, shall be introduced or moved in either Chamber of the Federal Legislature without the previous sanction of the Governor-General in his discretion.

(*3*) If any provision of a law of a Federated State is repugnant to a Federal law which extends to that State, the Federal law, whether passed before or after the law of the State, shall prevail and the law of the State shall, to the extent of the repugnancy be void.

CHAPTER II.

RESTRICTIONS ON LEGISLATIVE POWERS.

Sanction of Governor-General or Governor required for certain legislative proposals.

[1][**108.** (*1*) Unless the Governor-General in his discretion thinks fit to give his previous sanction, there shall not be introduced into, or moved in, either Chamber of the Federal Legislature, any Bill or amendment which—

(*a*) repeals, amends or is repugnant to any provisions of any Act of Parliament extending to British India; or

(*b*) repeals, amends or is repugnant to any Governor-General's or Governor's Act, or any ordinance promulgated in his discretion by the Governor-General or a Governor; or

(*c*) affects matters as respects which the Governor-General is, by or under this Act, required to act in his discretion; or

(*d*) repeals, amends or affects any Act relating to any police force; or

(*e*) affects the procedure for criminal proceedings in which European British subjects are concerned; or

(*f*) subjects persons not resident in British India to greater taxation than persons resident in British India or subjects companies wholly controlled and managed therein; or

(*g*) affects the grant of relief from any Federal tax on income in respect of income taxed or taxable in the United Kingdom.

(*2*) Unless the Governor-General in his discretion thinks fit to give his previous sanction, there shall not be introduced into, or moved in, a Chamber of a Provincial Legislature any Bill or amendment which—

(*a*) repeals, amends, or is repugnant to any provisions of any Act of Parliament extending to British India; or

(*b*) repeals, amends or is repugnant to any Governor-General's Act, of any ordinance promulgated in his discretion by the Governor-General; or

(*c*) affects matters as respects which the Governor-General is by or under this Act, required to act in his discretion; or

(*d*) affects the procedure for criminal proceedings in which European British subjects are concerned;

and unless the Governor of the Province in his discretion thinks fit to give his previous sanction, there shall not be introduced or moved any Bill or amendment which—

(i) repeals, amends or is repugnant to any Governor's Act, or any ordinance promulgated in his discretion by the Governor; or

(ii) repeals, amends or affects any Act relating to any police force.

1. Omitted, by the India (Provisional Constitution) Order, 1947.

(*3*) Nothing in this section affects the operation of any other provision in this Act which requires the previous sanction of the Governor-General or of a Governor to the introduction of any Bill or the moving of any amendment].

Requirements as to sanctions and recommendations to be regarded as matters of procedure only.

109. (*1*) Where under any provision of this Act the previous sanction or recommendation of the Governor-General or of a Governor is required to the introduction or passing of a Bill or the moving of an amendment, the giving of the sanction or recommendation shall not be construed as precluding him from exercising subsequently in regard to the Bill in question any powers conferred upon him by this Act with respect to the withholding of assent to or the reservation of Bills.

(*2*) No Act of the Federal Legislature or a Provincial Legislature, and no provision in any such Act, shall be invalid by reason only that some previous sanction or recommendation was not given, if assent to that Act was given—

(*a*) where the previous sanction or recommendation required was that of the Governor, either by the Governor, [2][by the Governor-General], [or by His Majesty][1];

(*b*) where the previous sanction or recommendation required was that of the Governor-General, either by Governor-General or by His Majesty.

Savings.

[3][**110.** Nothing in this Act shall be taken—

(*a*) to affect the power of Parliament to legislate for British India, or any part thereof; or

(*b*) to empower the Federal Legislature, or any Provincial Legislature—

(i) to make any law affecting the Sovereign or the Royal Family, or the Succession to the Crown, or the sovereignty, dominion or suzerainty of the Crown in any part of India, or the law of British nationality, or the Army Act, the Air Force Act, or the Naval Discipline Act, or the law of Prize courts; or

(ii) except in so far as is expressly permitted by any subsequent provisions of this Act, to make any law amending any provision of this Act, or any Order in Council made thereunder, or any rules made under this Act by the Secretary of State, or by the Governor-General or a Governor in his discretion, or in the exercise of his individual judgment; or

(iii) except in so far as is expressly permitted by any subsequent provision of this Act, to make any law derogating from any prerogative right of His Majesty to grant special leave to appeal from any court].

CHAPTER III.

PROVISIONS WITH RESPECT TO DISCRIMINATION, ETC.

British subjects domiciled in the United Kingdom.

[3]**111.** (*1*) Subject to the provisions of this chapter, a British subject domiciled in the United Kingdom shall be exempt from the operation of so much of any Federal or Provincial law as—

(*a*) imposes any restriction on the right of entry into British India; or

2. The word 'or' was inserted, by *ibid.*
3. Omitted by the India (Provisional Constitution) Order, 1947.

(*b*) imposes by reference to place of birth, race, descent, language, religion, domicile, residence or duration of residence, any disability, liability, restriction or condition in regard to travel, residence, the acquisition, holding, or disposal of property, the holding of public office, or the carrying on of any occupation, trade, business or profession:

Provided that no person shall by virtue of this sub-section be entitled to exemption from such restriction, condition, liability or disability as aforesaid if and so long as British subjects domiciled in British India are by or under the law of the United Kingdom subject in the United Kingdom to a like restriction, condition, liability, or disability imposed in regard to the same subject matter by reference to the same principle of distinction.

(2) For the purposes of the preceding sub-section, a provision, whether of the law of British India or of the law of the United Kingdom, empowering any public authority to impose quarantine regulations, or to exclude or deport individuals, wherever domiciled who appear to that authority to be undesirable persons, shall not be deemed to be a restriction on the right of entry.

(*3*) Notwithstanding anything in this section, if the Governor-General or, as the case may be, the Governor of any Province, by public notification certifies that for the prevention of any grave menace to the peace or tranquillity of any part of India or, as the case may be, of any part of the Province, or for the purpose of combating crimes of vlolence intended to overthrow the Government, it is expedient that the operation of the provisions of sub section (1) of this section should be wholly or partially suspended in relation to any law, then while the notification is in force the operation of those provisions shall be suspended accordingly.

The functions of the Governor-General and a Governor under this sub-section shall be exercised by him in his discretion.

Taxation.

[4]**112.** (*1*) No Federal or Provincial law which imposes any liability to taxation shall be such as to discriminate against British subjects domiciled in the United Kingdom or Burma or companies incorporated, whether before or after the passing of this Act, by or under the laws of the United Kingdom or Burma, and any law passed or made in contravention of this section shall, to the extent of the contravention, be invalid.

(*2*) Without prejudice to the generality of the foregoing provisions, a law shall be deemed to be such as to discriminate against such persons or companies as aforesaid if it would result in any of the being liable to greater taxation than that to which they would be liable if domiciled in British India or incorporated by or under the laws of British India, as the case may be.

(*3*) For the purposes of this section a company incorporated before the commencement of Part III of this Act under any existing Indian law and registered thereunder in Burma shall be deemed to be a company incorporated by or under the laws of Burma.

Companies incorporated in the United Kingdom.

[4]**113.** (*1*) Subject to the following provisions of this chapter, a company incorporated, whether before or after the passing of this Act, by or under the laws of the United Kingdom, and the members of the governing body of any such company and the holders of its shares, stock, debentures, debenture stock or bonds, and its officers, agents, and

4. Omitted, by the India (Provisional Constitution) Order, 1947.

servants, shall be deemed to comply with so much of any Federal or Provincial law as imposes in regard to companies carrying on or proposing to carry on business in British India requirements or conditions relating to or connected with—

(*a*) the place of incorporation of a company or the situation of its registered office, or the currency in which its capital or loan capital is expressed; or

(*b*) the place of birth, race, descent, language, religion, domicile, residence or duration of residence of members of the governing body of a company, or of the holders of its shares, stock, debentures, debenture stock or bonds, or of its officers, agents or servants;

Provided that no company or person shall by virtue of this section be deemed to comply with any such requirement or condition as aforesaid if and so long as a like requirement or condition is imposed by or under the law of the United Kingdom in regard to companies incorporated by or under the laws of British India and carrying on or proposing to carry on business in the United Kingdom.

(*2*) If and in so far as any total or partial exemption from, or preferential treatment in respect of, taxation imposed on companies by or under any Federal or Provincial law depends on compliance with conditions as to any of the matters mentioned in sub-section (1) of this section, any company incorporated by or under the laws of the United Kingdom carrying on business in British India shall be deemed to satisfy those conditions and be entitled to the exemption or preferential treatment accordingly, so long as the taxation imposed by or under the laws of the United Kingdom on companies incorporated by or under the laws of British India and carrying on business in the United Kingdom does not depend on compliance with conditions as to any of the matters so mentioned.

Companies incorporated in India.

114. (*1*) Subject to the following provisions of this chapter, a British subject domiciled in the United Kingdom shall be deemed to comply with so much of any Federal or Provincial law as imposes in regard to companies incorporated or proposed to be incorporated, whether before or after the passing of this Act, by or under the laws of British India, any requirements or conditions relating to, or connected with, the place of birth, race, descent, language, religion, domicile, residence or duration of residence of members of the governing body of a company, or of the holders of its shares, stock, debentures, debenture stock or bonds or of its officers, agents or servants;

Provided that no person shall by virtue of this section be deemed to comply with any such requirement or condition as aforesaid if and so long as a like requirement or condition is imposed by or under the law of the United Kingdom in regard to companies incorporated or proposed to be incorporated by or under the laws of the United Kingdom on British subjects domiciled in British India.

(*2*) If and in so far as, in the case of any such companies as aforesaid, any total or partial exemption from, or preferential treatment in respect of, taxation imposed by or under any Federal or Provincial law depends on compliance wih conditions as to any of the matters aforesaid, then, so far as regards such members of its governing body and such of the holders of its shares, stock, debentures, debenture stock or bonds, and such of its officers, agents, and servants, as are British subjects domiciled in the United Kingdom, any such company shall be deemed to satisfy those conditions and

be entitled to the exemption or preferential treatment accordingly, so long as the taxation imposed by or under the laws of the United Kingdom on companies incorporated by or under those laws does not, as regards such of the members of a company's governing body, or such of the holders of its shares, stock, debentures, debenture stock or bonds, or such of its officers, agents, or servants, as are British subjects domiciled in British India, depend on compliance with conditions as to any of the matters aforesaid.

(*3*) For the purposes of this section, but not for the purposes of any other provision of this chapter, a company incorporated before the commencement of Part III of this Act under any existing Indian law and registered thereunder in Burma, shall be deemed to be a company incorporated by or under the laws of British India.

Ships and aircraft.

[1]**115.** (*1*) No ship registered in the United Kingdom shall be subjected by or under any Federal or Provincial law to any treatment affecting either the ship herself, or her master, officers, crew, passengers cargo, which is discriminatory in favour of ships registered in British India, except in so far as ships registered in the United Kingdom.

(*2*) This section shall apply in relation to aircraft as it applies in relation to ships.

(*3*) The provisions of this section are in addition to and not in derogation of the provisions of any of the preceding sections of this chapter.

Subsidies for the encouragement of trade or industry.

[1]**116.** (*1*) Notwithstanding anything in any Act of the Federal Legislature or of a Provincial Legislature, companies incorporated, whether before or after the passing of this Act, by or under the laws of the United Kingdom and carrying on business in India shall be eligible for any grant, bounty or subsidy payable out of the revenues of the Federation or of a Province for the encouragement of any trade or industry to the same extent as companies incorporated by or under the laws of British India are eligible therefor:

Provided that this sub-section shall not apply in relation to any grant, bounty or subsidy for the encouragement of any trade or industry, if and so long as under the laws of British India and carrying on business in the United Kingdom are not equally eligible with companies incorporated by or under the laws of the United Kingdom for the benefit of any grant, bounty or subsidy payable out of public moneys in the United Kingdom for the encouragement of the same trade or industry.

(*2*) Notwithstanding anything in this chapter, an Act of the Federal Legislature or of a Provincial Legislature may, require, in the case of a company which at the date of the passing of that Act was not engaged in British India in that branch of trade or industry which it is the purpose of the grant, bounty or subsidy to encourage, that the company shall not be eligible for any grant, bounty or subsidy under the Act unless and until

(*a*) the company is incorporated by or under the laws of British India or, if the Act so provides, is incorporated by or under the laws of British India or of a Federal State; and

(*b*) such proportion, not exceeding one half, of the members of its governing body as the Act may prescribe, are British subjects domiciled in India or, if the Act so provides, are either British subjects domiciled in India or subjects of a Federated State; and

(*c*) the company gives such reasonable facilities as may be so prescribed for the training of British subjects domiciled in India or, if the Act so provides, of British subjects domiciled in India or subjects of a Federated State.

(*3*) For the purposes of this section a company incorporated by or under the laws of the United Kingdom shall be deemed to be carrying on business in India if it owns ships which habitually trade to and from parts in India.

Supplemental.

117. The foregoing provisions of this chapter shall apply in relation to any ordinance, order, bye-law, rule or regulation passed or made after the passing of this Act and having by virtue of any existing Indian law, or of any law of the Federal or any Provincial Legislature, the force of law as they apply in relation to Federal and Provincial laws, but, save as aforesaid, nothing in those provisions shall affect the operation of any existing Indian law.

Power to secure reciprocal treatment by convention.

118. (*1*) If after the establishment of the Federation a convention is made between His Majesty's Government in the United Kingdom and the Federal Government whereby similarity of treatment is assured in the United Kingdom to British subjects dominciled in British India and to companies incorporated by or under the laws of British India and in British India to British subjects domiciled in the United Kingdom and to companies incorporated by or under the laws of the United Kingdom, respectively, in respect of the matters, or any of the matters, with regard to which provision is made in the preceding sections of this chapter, His Majesty may, if he is satisfied that all necessary legislation has been enacted both in the United Kingdom and in India for the purpose of giving effect to the convention, by Order in council declare that the purpose of those sections are to such extent as may be specified in the Order sufficiently fulfilled by that convention and legislation, and while any such Order is in force, the operation of those sections shall to that extent be suspended.

(2) An Order in Council under this section shall cease to have effect if and when the convention to which it relates expires or is terminated by either party thereto.

Professional and technical qualifications in general.

119. (1) No Bill or amendment which prescribes, or empowers any authority to prescribe, the professional or technical qualifications which are to be requisite for any purpose in British India or which imposes, or empowers any authority to impose, by reference to any professional or technical qualification, and disability, liability, restriction or condition in regard to the practising of any profession, the carrying on of any occupation, trade or business, or the holding of any office in British India, shall be introduced or moved in either Chamber of the Federal Legislature without the previous sanction of the Governor-General in his discretion, or in a Chamber of a Provincial Legislature without the previous sanction of the Governor in his discretion.

(2) The Governor-General or a Governor shall not give his sanction for the purposes of the preceding sub-section unless he is satisfied that the proposed legislation is so framed as to secure that no person who, immediately before the coming into operation of any disability, liability, restriction or condition to be imposed by or under that legislation, was

lawfully practising any profession, carrying on any occupation, trade, or business, or holding any office in British India shall, except in so far as may be necessary in the interests of the public, be debarred from continuing to practise that profession, carry on that occupation trade or business, or hold that office, or from doing anything in the course of that profession, occupation, trade or business, or in the discharge of the duties of that office which he could lawfully have done if that disability, liability, restriction or condition had not come into operation.

(3) All regulations made under the provisions of any Federal or Provincial law which prescribe the professional or technical qualifications which are to be requisite for any purpose in British India or impose, by reference to any professional or technical qualification, any disability, liability, restriction or condition in regard to the practising of any profession, the carrying on of any occupatin, trade or business, or the holding of any office in British India, shall, not less than four months before they are expressed to come into operation, be published in such manner as may be required by general or special directions of the Governor-General, or, as the case may be, the Governor, and, if within two months from the date of the publication complaint is made to the Governor-General or, as the case may be, the Governor that the regulations or any of them will operate unfairly as against any class of persons affected thereby, the Governor-General or Governor, if he is of opinion that the complaint is well founded, may, at any time before the regulations are expressed to come into operation, by public notification disallow the regulations or any of them.

In this sub-section the expression "regulations" includes rules, byelaws, orders and ordinances.

In the discharge of his functions under this sub-section the Governor-General or a Governor shall exercise his individual judgment.

(4) If the Governor-General exercising his individual judgment by public notification directs that the provisions of the last preceding sub-section shall apply in relation to any existing Indian law, those provisions shall apply in relation to that law accordingly, and the functions which under those provisions are to be performed in relation to a Feneral law by the Governor-General and in relation to a Provincial law by the Governor shall, in relation to that existing Indian law, be performed, according as may be directed by the notification, by the Governor-General exercing his individual judgment, by the Governor exercising his individual judgment or partly by the one and partly by the other of them.

Medical qualifications.

[1]120. (1) So long as the condition set out in sub-section (3) of this section continues to be fulfilled, a British subject domiciled in the United Kingdom or India who, by virtue of a medical diploma granted to him in the United Kingdom, is, or is entitled to be, registered in the United Kingdom as a qualified medical practitioner shall not by or under any existing Indian law or any law of the Federal or any Provincial Legislature, be excluded from practising medicine, surgery or midwifery in British India, or in any part thereof, or from being registered as qualified so to do, on any ground other than the ground that the diploma held by him does not furnish a sufficient guarantee of his possession of the requisite knowledge and skill for the practice of medicine, surgery and midwifery, and he shall not be so excluded on that ground unless a law of the Federation or of the Province, as the case may be, makes provision for securing—

(*a*) that no proposal for excluding the holders of any particular

diploma from practice or registration shall become operative until the expiration of twelve months after notice thereof has been given to the Governor-General and to the University or other body granting that diploma; and

(*b*) that such a proposal shall not become operative or, as the case may be, shall cease to operate, if the Privy Council on an application made to them under the next succeeding sub-section determine that the diploma in question ought to be recognised as furnishing such a sufficient guarantee as aforesaid.

(2) If any University or other body in the United Kingdom which grants a medical diploma, or any British subject who holds such a diploma, is aggrieved by the proposal to exclude holders of that diploma from practice or registration in British India, that body or person may make an application to the Privy Council, and the Privy Council after giving to such authorities and persons both in British India and in the United Kingdom as they think fit an opportunity of tendering evidence or submitting representations in writing, shall determine whether the diploma in question does or does not furnish a sufficient guarantee of the possession of the requisite knowledge and skill for the practice of medicine, surgery and midwifery, and shall notify their determination to the Governor-General, who shall communicate it to such authorities, and cause it to be published in such manner, as he thinks fit.

(3) The condition referred to in sub-section (1) of this section is that British subjects domiciled in India who hold a medical diploma granted after examination in British India shall not be excluded from practising medicine, surgery or midwifery in the United Kingdom or from being registered therein as qualified medical practitioners, except on the ground that that diploma does not furnish a sufficient guarantee of the possession of the requisite knowledge and skill for the practice of medicine, surgery and midwifery, and shall only be excluded on that ground so long as the law of the United Kingdom makes provision for enabling any question as to the sufficiency of that diploma to be referred to and decided by the Privy Council.

(4) A medical practitioner entitled to practise or to be registered in British India by virtue of a diploma granted in the United Kingdom, or in the United Kingdom by virtue of a diploma granted in British India, shall not in the practice of his profession be subjected to any liability, disability, restriction or condition to which persons entitled to practise by virtue of diplomas granted in the other country are not subject.

(5) The foregoing provisions of this section shall, subject to the modifications hereinafter mentioned, apply in relation to British subjects domiciled in Burma who, by virtue of medical diplomas granted to them in Burma or the United Kingdom, are, or are entitled to be, registered in the United Kingdom as qualified medical practitioners as they apply in relation to British subjects domiciled in the United Kingdom who, by virtue of Medical diplomas granted in the United Kingdom, are or are entitled to be, registered in the United Kingdom as qualified medical practitioners.

The said modifications are as follows, that is to say,—

(*a*) sub-section (3) shall not apply and the reference in sub-section (1) to the condition set out therein shall be deemed to be omitted;

(*b*) any reference in sub-section (2) or sub-section (4) to the United Kingdom shall be construed as a reference to Burma.

(6) Nothing in this section shall be construed as affecting any power of any recognised authority in the United Kingdom or British India to

suspend or debar any person from practice on the ground of disconduct, or to remove any person from a register on the ground.

(7) In this section the expression "diploma" includes any certificate, degree, fellowship, or other document or status granted to persons passing examinations.

Officers of Indian Medical Service, etc.

[1]121. A person who holds a commission from His Majesty as a medical officer in the Indian Medical Service or any other branch of His Majesty's forces and is on the active list shall by virtue of that commission be deemed to be qualified to practise medicine, surgery and midwifery in British India, and be entitled to be registered in British India or any part thereof as so qualified.

PART VI[1].

ADMINISTRATIVE RELATIONS BETWEEN FEDERATION, PROVINCES AND STATES.

General.

Obligation of units and Federation.

122. (1) The executive authority of every Province and Federated State shall be so exercised as to secure respect for the laws of the Federal Legislature which apply in that Province or State.

(2) The reference in sub-section (1) of this section to laws of the Federal Legislature shall, in relation to any Province, include a reference to any existing Indian law applying in that Province.

(3) Without prejudice to any of the other provisions of this Part of this Act, in the exercise of the executive authority of the Federation in any Province or Federated State regard shall be had to the interests of that Province or State.

Governor-General may require Governors to discharge certain functions as his agents.

[1a]123. (1) The Governor-General may direct the Governor of any Province to discharge as his agent, either generally or in any particular case, such functions in and in relation to the tribal areas as may be specified in the direction.

(2) If in any particular case it appears to the Governor-General necessary or convenient so to do, he may direct the Governor of any Province to discharge as his agent such functions in relation to defence, txternal affairs, or ecclesiastical affairs as may be specified in the direction.

(3) In the discharge of any such functions the Governor shall act in his dicsretion.

Power of Federation to confer powers, etc., on Provinces and States in certain cases.

124. (1) Notwithstanding anything in this Act, the Governor-General may, with the consent of the Government of a Province or the Ruler of [1b][a Federated] State, entrust either conditionally or unconditionally to that Government or Ruler, or to their respective officers, functions in relation to any matter to which the executive authority of the [Federation] extends.

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1. This part came into force on 1-4-1937 under Government of India (Commencement and Transitorv Provisions) Order, para 3.

1a. Omitted, by the India (Provisional Constitution) Order, 1947.

1b. Substituted, by *ibid.*, for the words 'an Acceding'.

(2) An Act of the [1c][Federal] Legislature may, notwithstanding that it relates to a matter with respect to which a Provincial Legislature has no power to make laws, confer powers and impose duties [2] [or authorise the conferring of powers and the imposition of duties] upon a Province or officers and authorities thereof.

(3) An Act of the [1c][Federal] Legislature which extends to [1b][a Federated] State may confer powers and impose duties [2][or authorise the conferring of powers and the imposition of duties] upon the State or officers and authorities thereof to be designated for the purpose by the Ruler.

(4) Where by virtue of this section powers and duties have been conferred or imposed upon a Province or [1b][Federated] State or officers or authorities thereof, there shall be paid by the [1c][Federation] to the Province or State such sum as may be agreed, or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India, in respect of any extra costs of administration incurred by the Province or State in connection with the exercise of those powers and duties.

Administration of Federal Acts in Indian States.

125. (1) Notwithstanding anything in this Act, agreements may, and, if provision has been made in that behalf by the Instrument of Accession of the State, shall, be made between the Governor-General and the Ruler of [1b][a Federated] State for the exercise by the Ruler or his officers of functions in relation to the administration in his State of any law of the [1c][Federal Legislature] which applies therein.

(2) An agreement made under this section shall contain provisions enabling the Governor-General in his discretion to satisfy himself, by inspection or otherwise, that the administration of the law to which the agreement relates is carried out in accordance with the policy of the [1c][Federal] Government and, if he is not satisfied, the Governor-General acting in his discretion, may issue such directions to the Ruler as he thinks fit.

Control of Federation over Province in certain cases.

126. (1) The executive authority of every Province shall be so exercised as not to impede or prejudice the exercise of the executive authority of the [1c][Federation], and the executive authority of the [1c][Federation] shall extend to the giving of such directions to a Province as may appear to the [1c][Federal] Government to be necessary for that purpose.

(2) The executive authority of the [1c][Federation] shall also extend to the giving of directions to a Province as to the carrying into execution therein of any Act of the [1c][Federal] Legislature which relates to a matter specified in Part II of the Concurrent Legislative List and authorises the giving of such directions:

Provided that a Bill or amendment which proposes to authorise the giving of any such directions as aforesaid shall not be introduced into or moved in either Chamber of the [1c][Federal] Legislature with the previous sanction of the Governor-General in his discretion.

(3) The executive authority of the [1c][Federation] shall also extend to the giving of directions to a Province as to the construction and maintenance of means of communication declared in the direction to be of military importance:

1c. Substituted, by *ibid.*, for the words 'Dominion'.

2. *Inserted* by the Government of India Act (Amendment) Act, 1939 (2 & 3 Geo. 6, Ch. 66), S. 1, (*effective* from 1-4-1937) *see ibid.*, S. 2(2).

Provided that nothing in this sub-section shall be taken as restricting the power of the Federation to construct and maintain means of communication as part of its functions with respect to naval, military and air force works.

[3][(4) If it appears to the Governor-General that in any Province effect has not been given to any directions given under this section, the Governor-General, acting in his discretion, may issue as orders to the Governor of that Province either the directions previously given or those directions modified in such manner as the Governor-General thinks proper].

[4][(5) Without prejudice to his powers under the last preceding sub-section, the Governor-General, acting in his discretion, may at any time issue orders to the Governor of a Province as to the manner in which the executive authority thereof is to be exercised for the purpose of preventing any grave menance to the peace or tranquillity of India or of any part thereof].

[4a][**126-A.** Where a proclamation of Emergency is in operation whereby the Governor-General has declared that the security of India is threatened by war—

(*a*) the executive authority of the [1c][Federation] shall extend to the giving of directions to a Province as to the manner in which the executive authority thereof is to be exercised, and any directions so given shall for the purposes of the last preceding section be deemed to be directions given thereunder;

(*b*) any power of the [1c][Federal] Legislature to make laws for a Province with respect to any matter shall include power to have laws as respects a Province conferring powers and imposing duties, or authorising the conferring of powers and the imposition of duties, upon the Federation or officers and authorities of the [1c][Federation] as respects that matter, notwithstanding that it is one with respect to which the Provincial Legislature also has power to make laws:

Provided that no Bill or amendment which, as respects a Province, confers powers or imposes duties, or authorises the conferring of powers or he imposition of duties, upon the [1c][Federation] or upon officers or authorities of the [1c][Federation] in relation to such a matter as aforesaid shall be introduced or moved without the previous sanction of the Governor-General in his discretion, and the Governor-General shall not give his sanction unless it appears to him that the provision proposed to be made is a proper provision in view of the nature of the emergency].

Acquisition of land for Federal purposes.

127. The [1c][Federation] may, if it deems it necessary to acquire any land situate in a Province for any purpose connected with a matter with respect to which the [1c][Federal] Legislature has power to make laws, require the Province to acquire the land on behalf, and at the expense, of the [1c][Federation] or, if the land belongs to the Province, to transfer it to the [1c][Federation] on such terms as may be agreed or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India.

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3. Omitted, by *ibid.*
4. Substituted by *ibid.*, as follows—
"The executive authority of the Dominion shall also extend to the giving of directions to a Province as to the manner in which the executive authority thereof is to be exercised for the purpose of preventing any grave menace to the peace or tranquillity of India or of any part thereof".

4a. *Inserted* by the Government of India (Amendment) Act, 1939, (2 & 3 Geo. VI, C. 66), S. 1 [with effect from 1-4-1937].

Duty of Ruler of a State as respects Federal subjects.

128. (*1*) The executive authority of every [1b][Federated] State shall be so exercised as not to impede or prejudice the exercise of the executive authority of the [1c][Federation] so far as it is exercisable in the State by virtue of a law of the [1c][Federal] Legislature which applies therein.

(*2*) If it appears to the Governor-General that the Ruler of any [1b][Federated] State has in any way failed to fulfil his obligations under the preceding sub-section the Governor-General, acting in his discretion, may after considering any representations made to him by the Ruler issue such directions to the Ruler as he thinks fit:

Provided that, if any question arises under this section as to whether the executive authority of the [1c][Federation] is exercisable in a State with respect to any matter or as to the extent to which it is so exercisable, the question may, at the instance either of the [1c][Federation] or the Ruler, be referred to the Federal Court for determination by that Court in the exercise of its original jurisdiction under this Act.

Broadcasting.

Broadcasting.

129. (*1*) The [5][Federal] Government shall not unreasonably refuse to entrust to the Government of any Province or the Ruler of any [6][Federated] State such functions with respect to broadcasting as may be necessary to enable that Government or Ruler—

(*a*) to construct and use transmitters in the Province or State;

(*b*) to regulate, and impose fees in respect of, the construction and use of transmitters and the use of receiving apparatus in the Province or State:

Provided that nothing in this sub-section shall be construed as requiring the [5][Federal] Government to entrust to any such Government or Ruler any control over the use of transmitters constructed or maintained by the [5][Federal] Government or by persons authorised by the [5][Federal] Government, or over the use of receiving apparatus by persons so authorised.

(*2*) Any functions so entrusted to a Government or Ruler shall be exercised subject to such conditions as may be imposed by the [5][Federal] Government, including, notwithstanding anything in this Act, any conditions regulating the matter broadcast by, or by authority of, the Government or Ruler.

(*3*) Any [5][Federal] laws which may be passed with respect to broadcasting shall be such as to secure that effect can be given to the foregoing provisions of this section.

(*4*) If any question arises under this section whether any conditions imposed on any such Government or Ruler are lawfully imposed, or whether any refusal by the [5][Federal] Government to entrust functions is unreasonable, the question shall be determined by [7][the Governor-General in his discretion].

(*5*) Nothing in this section shall be construed as restricting the powers conferred on the Governor-General by this Act for the prevention of any grave menace to the peace or tranquillity of India or any part thereof, [8][or

5. Substituted, by *ibid.*, by the word Dominion'.
6. Substituted, by *ibid.*, by the word 'Acceding'.
7. Substituted, by *ibid.*, by the words "an arbitrator appointed by the Chief Justice of India".
8. Omitted, by *ibid.*

as prohibiting the imposition on Governments or Rulers of such conditions regulating matter broadcast as appear to be necessary to enable the Governor-General to discharge his functions in so far as he is by or under this Act required in the exercise thereof to act in his discretion or to exercise his individual judgment].

Interference with Water Supplies.

Complaints as to interference with water-supplies.

130. If it appears to the Government of any Governor's Province or to the Ruler of any [6][Federated] State that the interests of that Province or State, or of any of the inhabitants thereof, in the water from any natural source of supply in any Governor's or Chief Commissioner's Province or [6][Federated] State, have been, or are likely to be, affected prejudicially by—

(*a*) any executive action or legislation taken or passed, or proposed to be taken or passed; or

(*b*) the failure of any authority to exercise any of their powers..... .....with respect to the use, distribution or control of water from that source the Government or Ruler may complain to the Governor-General.

Decision of complaints.

131. (*1*) If the Governor-General receives such a complaint as aforesaid, he shall, unless he is of opinion that the issues involved are not of sufficient importance to warrant such action, appoint a Commission consisting of such persons having special knowledge and experience in irrigation, engineering, administration, finance or law, as he thinks fit, and request that Commission to investigate in accordance with such instruction as he may give to them, and to report to him on, the matters to which the complaint relates, or such of those matters as he may refer to them.

(*2*) A Commission so appointed shall investigate the matters referred to them and present to the Governor-General a report setting out the facts as found by them and making such recommendations as they think proper.

(*3*) If it appears to the Governor-General upon consideration of the Commissioner's report that anything therein contained requires explanation, or that he needs guidance upon any point not originally referred by him to the Commission, he may again refer the matter to the Commission for further investigation and a further report.

(*4*) For the purpose of assisting a Commission appointed under this section in investigating any matters referred to them, the [5][Federal] Court, if requested by the Commission so to do, shall make such orders and issue such letters of request for the purposes of the proceedings of the Commission as they may make or issue in the exercise of the jurisdiction of the Court.

(5) After considering any report made to him by the Commission, the Governor-General shall give such decision and make such order, if any, in the matter of the complaint as he may deem proper:

[8][Provided that if, before the Governor-General has given any decision, the Government of any Province or the Ruler of any State affected request him so to do, he shall refer the matter to His Majesty in Council and His Majesty in Council may give such decision and make such order, if any, in the matter as he deems proper].

(*6*) Effect shall be given in any Province or State affected to any order made under this section by His Majesty in Council or the Governor-General,

and any Act of a Provincial Legislature or of a State which is repugnant to the order shall, to the extent of the repugnancy, be void.

(7) Subject as hereinafter provided the Governor-General, on application made to him by the Government of any Province, or the Ruler of any State affected may at any time, if after a reference to, and report from, a Commission appointed as aforesaid he considers it proper so to do, vary any decision or order given or made under this section:

[9][Provided that, where the application relates to a decision or order of His Majesty in Council and in any other case if the Government of any Province or the Ruler of any State affected requested him so to do, the Governor-General shall refer the matter to His Majesty in Council, and His Majesty in Council may, if he considers proper so to do, vary the decision or order].

(8) An order made by [9][His Majesty in Council or] the Governor-General under this section may contain directions as to the Government or persons by whom the expenses of the Commission and any costs incurred by any Province, State or persons in appearing before the Commission are to be paid, and may fix the amount of any expenses or costs to be so paid, and so far as it relates to expenses or costs, may be enforced as if it were an order made by the Federal Court.

[9][(9) The functions of the Governor-General under this section shall be exercised by him in his discretion].

Interference with water-supplies of Chief Commissioner's Province.

132. If it appears to the Governor-General that the interests of any Chief Commissioner's Province, or of any of the inhabitants of such a Province, in the water from any natural source of supply in any Governor's Province or [6][Federated] State have been or are likely to be affected prejudicially by—

(*a*) any executive action or legislation taken or passed or proposed to be taken or passed; or

(*b*) the failure of any authority to exercise any of their powers, ... with respect to the use, distribution or control of water from that source, he may, if he in his discretion thinks fit, refer the matter to a Commission appointed in accordance with the provisions of the last preceeding section and thereupon those provisions shall apply as if the Chief Commissioner's Province were a Governor's Province and as if a complaint with respect to the matter had been made by the Government of that Province to the Governor-General.

Jurisdiction of Courts excluded.

133. Notwithstanding anything in this Act, neither the Federal Court nor any other Court shall have jurisdiction to entertain any action or suit in respect of any matter if action in respect of that matter might have been taken under any of the three last preceding sections by the Government of a Province, the Ruler of a State, or the Governor-General.

Ruler of State may exclude application of provisions as to water-supply.

134. The provisions contained in this Part of this Act with respect to interference with water-supplies shall not apply in relation to any Federated State [10][the Ruler whereof] has declared in his Instrument of Accession that those provisions are [not][9] to apply in relation to his State.

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9. Omitted, by *ibid.*
10. Substituted, by *ibid.*, by the words 'unless the Ruler thereof'.

Inter-Provincial Co-operation.

Provisions with respect to an Inter-Provincial Council.

135. If at any time it appears to [His Majesty upon the consideration of representations addressed to him by][10] the Governor-General that the public interests would be served by the establishment of the Inter-Provincial Council charged with the duty of—

(*a*) inquiring into and advising upon disputes which may have arisen between Provinces;

(*b*) investigating and discussing subjects in which some or all of the Provinces, or the Federation and one or more of the Provinces, have a common interest; or

(*c*) making recommendations upon any such subject and, in particular, recommendations for the better co-ordination of policy and action with respect to that subject,.....it shall be lawful for [11][His Majesty in Council] to establish such a Council, and to define the nature of the duties to be performed by it and its organisation and procedure.

PART VII[1]

FINANCE, PROPERTY, CONTRACTS AND SUITS.

CHAPTER I.

FINANCE.

Distribution of Revenues between the Federation and the Federal Units.

Meaning of "revenues of Federation" and "revenues of Province".

136. Subject to the following provisions of this chapter with respect to the assignment of the whole or part of the net proceeds of certain taxes and duties to Provinces and Federated States, [1a][and subject to the provisions of this Act with respect to the Federal Railway Authority], the expression "revenues of the Federation" includes all revenues and public monys raised or received by the Federation, and the expression "revenues of the Province" includes all revenues and public moneys raised or received by a Province.

Certain succession duties, stamp duties, terminal taxes and taxes on fares and freights.

137. Duties in respect of succession to property other than agricultural land, [2]estate duty in respect of property other than agricultural land, such stamp duties as are mentioned in the Federal Legislative List, terminal taxes on goods or passengers carried by railway, or air, and taxes on railway fares and freights, shall be levied and collected by the [Federation][1b], but the net proceeds in any financial year of any such duty or tax, except in so far as those proceeds represent proceeds attributable to Chief Commissioners' Provinces, shall not form part of the revenues of the [Federation][1b], but shall be assigned to the Provinces and to the [Federated][1c] States, if any, within which that duty or tax is leviable in that year, and shall be distributed among the Provinces and those States in

11. Substituted, by *ibid.*, by the word 'Governor-General'.
1. This part came into effect on 1-4-1937—*See* the Government of India (Commencement and Transitory Provisions) Order, 1936, para. 3.
1a. Omitted, by the India (Provisional Constitution) Order, 1947.
1b. Substituted, by *ibid.*, by the word 'Dominion'.
1c. Substituted, by *ibid.*, by the word 'Acceding'.
2. *Inserted* by India (Estate Duty) Act, 1945 (8 & 9 Geo. 6, Ch. 7), S. 1.

accordance with such principles of distribution as may be formulated by Act of the [Federal][1b] Legislature:

Provided that the [Federal][1b] Legislature may at any time increase any said duties or taxes by a surcharge for [Federal][1b] purposes and the whole proceeds of any such surcharge shall form part of the revenues of the [Federation][1b].

Taxes on income.

138. (*1*) Taxes on income other than agricultural income shall be levied and collected by the Federation, but a prescribed percentage of the net proceeds in any financial year of any such tax, except in so far as those proceeds represent proceeds attributable to Chief Commissioners' Provinces or to taxes payable in respect of [Federal][1b] emoluments, shall not form part of the revenues of the [Federation][1b], but shall be assigned to the Provinces and to the [Federated][1c] States, if any, within which that tax is leviable in that year, and shall be distributed among the Provinces and those States in such manner as may be prescribed[3]:

Provided that—

(*a*) the percentage originally prescribed under this sub-section shall not be increased by any [subsequent Order in Council][3a].

(*b*) the [Federal][1b] Legislature may at any time increase the said taxes by a surcharge for [Federal][1b] purposes and the whole proceeds of any such surcharge shall form part of the revenues of the [Federation][1b].

[4][For the purposes of this sub-section, in each financial year [1a][one per cent., or] such [1a][other] percentage as may be prescribed, of so much of the net proceeds of taxes on income as does not represent the net proceeds of taxes payable in respect of [Federal][1b] emoluments shall be deemed to represent proceeds attributable to the Chief Commissioners' Provinces].

(*2*) Notwithstanding anything in the preceding sub-section, the [Federation][1b] may retain out of the moneys assigned by that sub-section to Province and States—

(*a*) in each year of a prescribed period such sum as may be prescribed [or[4], if it is so prescribed, the whole of those moneys]; and

(*b*) in each year of a further prescribed period a sum less than that retained in the preceding year by an amount, being the same amount in each year, so calculated that the sum to be retained in the last year of the period will be equal to the amount of each such annual reduction:

Provided that—

(*i*) neither of the periods originally prescribed shall be reduced by any subsequent Order in Council;

(*ii*) the Governor-General in his discretion may in any year of the second prescribed period direct that the sum to be retained by the [Federation][1b] in that year shall be the sum retained in the preceding year, and that the second prescribed period shall be correspondingly extended, but he shall not give any such direction except after consultation with such representatives of [Federal][1b], Provincial and State interest as he may think desirable, nor shall be give any such direction unless he is

3. *See* the Government of India (Distribution of Revenues) Order, 1936 [3-7-1936].
3a. Substituted, by *ibid.*, by the words 'Order of the Governor-General'.
4. *Inserted* by the India and Burma (Miscellaneous Amendments) Act, 1940 (3 & 4 Geo. 6, Ch. 5), S. 1.

satisfied that the maintenance of the financial stability of the [Federal][1b] Government requires him so to do.

(*3*) Where an Act of the [Federal][1b] Legislature imposes a surcharge for [Federal][1b] purposes under this section, the Act shall provide for the payment by each [Federated][1c] State in which taxes on income are not leviable by such basis as may be prescribed with a view to securing that the contribution shall be the equivalent, as near as may be, of the net proceeds which it is estimated would result from the surcharge if it were leviable in that State, and the State shall become liable to pay that contribution accordingly.

(*4*) In this section—

"taxes on income" does not include a corporation tax;

"prescribed" means prescribed by [His Majesty in Council][4a]; and

"Federal emoluments" includes all emoluments and pensions payable out of the revenues of the [Federation][1b] or of the Federal Railway Authority in respect of which income-tax is chargeable.

Corporation tax.

[4b][**139.** (*1*) Corporation tax shall not be levied by the Federation in any Federated State until ten years have elapsed from the establishment of the Federation.

(*2*) Any Federal law providing for the levying of corporation tax shall contain provisions enabling the Ruler of any Federated State in which the tax would otherwise be leviable to elect that the tax shall not be levied in the State, but that in lieu thereof there shall be paid by the State to the revenues of the Federation a contribution as near as may be equivalent to the net proceeds which it is estimated would result from the tax if it were levied in the State.

(*3*) Where the Ruler of a State so elects as aforesaid, the officers of the Federation shall not call for any information or returns from any corporation in the State, but it shall be the duty of the Ruler thereof to cause to be supplied to the Auditor-General of India such information as the Auditor-General may reasonably require to enable the amount of any such contribution to be determined.

If the Ruler of a State is dissatisfied with the determination as to the amount of the contribution payable by his State in any financial year, he may appeal to the Federal Court, and if he establishes to the satisfaction of that Court that the amount determined is excessive, the Court shall reduce the amount accordingly and no appeal shall lie from the decision of the Court on the appeal].

Salt duties, excise duties and export duties.

140. (*1*) Duties on salt, Federal duties of excise and export duties shall be levied and collected by the Federation, but, if an Act of the Federal Legislature so provides, there shall be paid out of the revenues of the Federation to the Provinces and to the Federated States, if any, to which the Act imposing the duty extends, sums equivalent to the whole or any part of the net proceeds of that duty, and those sums shall be distributed among the Provinces and those States in accordance with such principles of distribution as may be formulated by the Act.

(*2*) Notwithstanding anything in the preceding sub-section, [one half, or

4a. Substituted, by *ibid.*, by the words 'Order of the Governor-General'.
4b. Omitted, by *ibid.*

such greater proportion as His Majesty in Council may determine][5], of the net proceeds in each year of any export duty on jute products shall not form part of the revenues of the Federation, but shall be assigned to the Provinces or Federated States in which jute is grown in proportion to the respective amounts of jute grown therein.

Prior sanction of Governor-General required to Bills affecting taxation in which Provinces are interested.

141. (*1*) No Bill or amendment which imposes or varies any tax or duty in which Provinces are interested or which varies the meaning of the expression "agricultural income" as defined for the purposes of the enactments relating to Indian income-tax, or which affects the principles on which under any of the foregoing provisions if this chapter moneys are or may be distributable to Provinces or States, or which imposes any such Federal surcharge as is mentioned in the foregoing provisions of this chapter, shall be introduced or moved in either Chamber of the Federal Legislature except with the previous sanction of the Governor-General in his discretion.

(*2*) The Governor-General shall not give his sanction to the introduction of any Bill or the moving if any amendment imposing in any year any such Federal surcharge as aforesaid unless he is satisfied that all practicable economies and all practicable measures for otherwise increasing the proceeds of Federal taxation or the portion thereof retainable by the Federation would not result in the balancing of Federal receipts and expenditure on revenue account in that year.

(*3*) In this section the expression "tax or duty in which Provinces are interested" means—

(*a*) a tax or duty the whole or part of the net proceeds whereof are assigned to any Province; or

(*b*) a tax or duty by reference to the net proceeds whereof sums are for the time being payable out of the revenues of the Federation to any Provinces.

Grants from Federation to certain Provinces.

142. Such sums as may be prescribed by [His Majesty in Council][6] shall be charged on the revenues of the Federation in each year as grants-in-aid of the revenues of such Provinces as His Majesty may determine to be in need of assistance, and different sums may be prescribed for different Provinces:

Provided that, except in the case of the North-West Frontier Province, no grant fixed under this section shall be increased by a subsequent Order, unless an address has been presented to the Governor-General by both Chambers of the Federal Legislature for submission to [His Majesty][6a] praying that the increase may be made.

Taxes on professions, trades, callings and employments.

[7][**142-A.** (*1*) Notwithstanding anything in section one hundred of this Act, no Provincial law relating to taxes for the benefit of a Province or of a municipality, district board, local board or other local authority therein in respect of professions, trades, callings or employments shall be invalid on the ground that it relates to a tax on income.

5. Substituted, by *ibid.*, by the words 'such proportion as the Governor-General may by order determine'.
6. Substituted, by *ibid.*, by the words 'Order of the Governor-General'.
6a. Substituted, by *ibid.*, by the words 'the Governor-General'.
7. *Inserted* by the India and Burma (Miscellaneous Amendment) Act, 1940 (3 & 4 Geo. 6, Ch. 5), S. 2.

(*2*) The total amount payable in respect of any one person to the Province or to any one municipality, district board, local board, or other local authority in the Province by way of taxes on professions, trades, callings and employments shall not, after the thirty-first day of March nineteen hundred and thirty-nine, exceed fifty rupees per annum:

Provided that, if in the financial year ending with that date there was in force in the case of any Province or any such municipality, board or authority a tax in professions, trades callings or employments the rate, or the maximum rate, of which exceeded fifty rupees per annum, the preceding provisions of this sub-section shall, unless for the time being provision to the contrary is made by a law of the Federal Legislature, have effect in relation to that Province, municipality, board or authority as if for the reference to fifty rupees per annum there were substituted a reference to that rate or maximum rate, or such lower rate, if any (being a rate greater than fifty rupees per annum), as may for the time being be fixed by a law of the Federal Legislature; and any law of the Federal Legislature made for any of the purposes of this proviso may be made either generally or in relation to any specified Provinces, municipalities, boards or authorities.

(*3*) The fact that the Provincial Legislature has power to make laws as aforesaid with respect to taxes on professions, trades, callings and employments, the generality of the entry in the Federal Legislative List relating to taxes on income].

Savings.

143. (*1*) Nothing in the foregoing provisions of this chapter affects any duties or taxes levied in any Federated State otherwise than by virtue of an Act of the Federal Legislature applying in the State.[7a]

[7][(1A) Nothing in the foregoing provisions of this chapter authorises the levy of any duty or tax by the Dominion in any Acceding State unless provision in that behalf is made in the Instrument of Accession of that State.]

(*2*) Any taxes, duties, cesses or fees which, immediately before the commencement of Part III of this Act, were being lawfully levied by any Provincial Government, municipality or other local authority or body for the purposes of the Province, municipality, district or other local area under a law in force on the first day of January, nineteen hundred and thirty-five[8], may notwithstanding that those taxes, duties, cesses or fees are mentioned in the Federal Legislative List, continue to be levied and to be applied to the same purposes until provision to the contrary is made by the Federal Legislature.

Calculation of "net proceeds," etc.

144. (*1*) In the foregoing provisions of this chapter "net proceeds" means in relation to any tax or duty the proceeds thereof reduced by the cost of collection, and for the purposes of those provisions the net proceeds of any tax or duty, or of any part of any tax or duty, in or attributable to any area shall be ascertained and certified by the Auditor-General of India, whose certificates shall be final.

(*2*) Subject as aforesaid, and to any other express provision of this chapter, an Act of the Federal Legislature may, in any case where under

7a. Sub-sec. (1A) was inserted, by the India (Provisional Constitution) Order, 1947, as follows—

8. To be *construed* as reference to the 1-4-1937 for a period of two years thereafter under the India and Burma (Transitory Provisions) Order, 1937, para. 3.

this Part of this Act the proceeds of any duty or tax are, or may be, assigned to any Province or State, or a contribution is, or may be, made to the revenues of the Federation by any State, provide for the manner in which the proceeds of any duty or tax and the amount of any contribution are to be calculated, for the times in each year and the manner at and in which any payments are to be made, for the making of adjustments between one financial year and another, and for any other incidental or ancillary matters.

The Crown and the States.

Expenses of the Crown in connection with Indian States.

[8a]**145.** There shall be paid to His Majesty by the Federation in each year the sums stated by His Majesty's Representative for the exercise of the functions of the Crown in its relations with Indian States to be required, whether on revenue account or otherwise, for the discharge of those functions, including the making of any payments in respect of any customary allowances to members of the family or servants of any former Ruler of any territories in India.

Payments from or by Indian States.

[8a]**146.** All cash contributions and payments in respect of loans and other payments due from or by any Indian State which, if this Act had not been passed, would have formed part of the revenues of India, shall be received by His Majesty, and shall if His Majesty has so directed, be placed at the disposal of the Federation, but nothing in this Act shall derogate from the right of His Majesty, if he thinks fit so to do, to remit at any time the whole or any part of any such contributions or payments.

Remission of States' contributions.

[8a]**147.** (*1*) Subject to the provisions of sub-section (3) of this section His Majesty may, in signifying his acceptance of the Instrument of Accession of a State, agree to remit over a period not exceeding twenty years from the date of the accession of the State to the Federation any cash contributions payable by that State.

(*2*) Subject as aforesaid, where any territories have been voluntarily ceded to the Crown by a Federated State before the passing of this Act—

(*a*) in return for specific military guarantees, or

(*b*) in return for the discharge of the State from obligations to provide military assistance,

there shall, if His Majesty, in signifying his acceptance of the Instrument of Accession of that State, so directs be paid to that State, but in the first-mentioned case on condition that the said guarantees are waived, such sums as in the opinion of His Majesty ought to be paid in respect of any such cession as aforesaid.

(*3*) Notwithstanding anything in this section—

(*a*) every such agreement or direction as aforesaid shall be such as to secure that no such remission or payment shall be made by virtue of the agreement or direction until the Provinces have begun to receive moneys under the section of this chapter relating to taxes on income, and, in the case of a remission, that the remission shall be complete before the expiration of twenty years from the date of the accession to the Federation of the State in question, or before the end of the second prescribed period referred to in sub-section (2) of the said section, whichever first occurs; and

8a. Omitted by the India (Provisional Constitution) Order, 1947.

(*b*) no contribution shall be remitted by virtue of any such agreement save in so far as it exceeds the value of any privilege or immunity enjoyed by the State; and

(*c*) in fixing the amount of any payments in respect of ceded territories, account shall be taken of the value of any such privilege or immunity.

(*4*) This section shall apply in the case of any cash contributions the liability for which has before the passing of this Act been discharged by payment of a capital sum or sums, and accordingly His Majesty may agree that the capital sum or sums so paid shall be repaid either by instalments or otherwise, and such repayments shall be deemed to be remissions for the purposes of this section.

(*5*) In this chapter "cash contributions" means—

(*a*) periodical contributions in acknowledgment of the suzerainty of His Majesty, including contributions payable in connection with any arrangement for the aid and protection of a State by His Majesty, and contributions in commutation of any obligation of a State to provide military assistance to His Majesty, or in respect of the maintenance by His Majesty of a special force for service in connection with a State, or in respect of the maintenance of local military forces or police or in respect of the expenses of an agent;

(*b*) periodical contributions fixed on the creation or restoration of a State, or on a re-grant or increase of territory, including annual payments for grants of land on perpetual tenure or for equalisation of the value of exchanged territory;

(*c*) periodical contributions formerly payable to another State but now payable to His Majesty by right of conquest, assignment or lapse.

(*6*) In this chapter "privilege or immunity" means any such right, privilege, advantage or immunity of a financial character as is hereinafter mentioned, that is to say—

(*a*) rights, privileges or advantages in respect of, or connected with, the levying of sea customs or the production and sale of untaxed salt;

(*b*) sums receivable in respect of the abandonment or surrender of the right to levy internal customs duties, or to produce or manufacture salt, or to tax salt or other commodities or goods in transit, or sums receivable in lieu of grants of free salt;

(*c*) the annual value to the Ruler of any privilege or territory granted in respect of the abandonment or surrender of any such right as is mentioned in the last preceding paragraph;

(*d*) privileges in respect of free service stamps or the free carriage of State mails on government business:

(*e*) the privilege of entry free from customs duties of goods imported by sea and transported in bond to the State in question; and

(*f*) the right to issue currency notes,

not being a right, privilege, advantage or immunity surrendered upon the accession of the State, or one which, in the opinion of His Majesty, for any other reason ought not to be taken into account for the purposes of this chapter.

(*7*) An Instrument of Accession of a State shall not be deemed to be suitable for acceptance by His Majesty, unless it contains such particulars as appear to His Majesty to be necessary to enable due effect to be given to the provisions of this and the next but one succeeding sections, and in

particular provision for determining from time to time the value to be attributed for the purposes of those provisions to any privilege or immunity the value of which is fluctuating or uncertain.

Certain payments to Federated States, etc., to be charged on Federal revenues.

[8a]**148.** Any payments made under the last preceding section and any payments heretofore made to any State by the Governor-General in Council or by any Local Government under any agreements made with that State before the passing of this Act, shall be charged on the revenues of the Federation or on the revenues of the corresponding Province under this Act, as the case may be.

Value of privileges and immunities to be set off against share of taxes, etc., assigned to Federated States.

[8a]**149.** Where under the foregoing provisions of this chapter there is made in any year by the Federation to a Federated State any payment or distribution of, or calculated by reference to, the net proceeds of any duty or tax, the value in and for that year of any privilege or immunity enjoyed by that State in respect of any former or existing source of revenue from a similar duty or tax or from goods of the same kind, being a privilege or immunity which has not been otherwise taken into account shall, if and in so far as the Act of the Federal Legislature under which the payment or distribution is made so provides, be set off against the payment or distribution.

Miscellaneous Financial Provisions.

Expenditure defrayable out of Indian revenues.

150. (1) No burden shall be imposed on the revenues of the Federation or the Provinces except for the purposes of [India][8b] or some part of [India][8b].

(2) Subject as aforesaid, the Federation or a Province may make grants for any purpose, notwithstanding that the purpose is not one with respect to which the Federal or the Provincial Legislature, as the case may be, may make laws.

Provisions as to the custody of public moneys.

151. (1) Rules may be made by the Governor-General and by the Governor of a Province for the purpose of securing that all moneys received on account of the revenues of the Federation or of the Province, as the case may be, shall, with such exceptions, if any as may be specified in the rules, be paid into the public account of the Federation or of the Province, and the rules so made may prescribe, or authorise some person to prescribe, the procedure to be followed in respect of the payment of moneys into the said account, the withdrawal with or ancillary to the matters aforesaid.

[8c][(2) In the exercise of his powers under this section the Governor-General or a Governor shall exercise his individual judgment].

Exercise by Governor-General of certain powers with respect to Reserve Bank.

[8c]**152.** (1) The functions of the Governor-General with respect to the following matters shall be exercised by him in this discretion, that is to say—

(*a*) the appointment and removal from office of the Governor and Deputy Governors of the Reserve Bank of India, the approval of their terms of office;

8b. Substituted, by *ibid.*, by the word 'Dominion'.
8c. Omitted, by *ibid.*

(*b*) the appointment of an officiating Governor or Deputy Governor of the Bank;

(*c*) the supersession of the Central Board of the Bank and any action consequent therein; and

(*d*) the liquidation of the Bank.

(p) In nominating directors of the Reserve Bank of India and in removing from office any director nominated by him, the Governor-General shall exercise his individual judgment.

Previous sanction of Governor-General to legislation with respect to Reserve Bank, currency and coinage.

153. No Bill or amendment which affects the coinage or currency of the Federation or the constitution or functions of the Reserve Bank of India shall be introduced into or moved in [8c][either Chamber] of the Federal Legislature without the previous sanction of the Governor-General in his discretion.

Exemption of certain public property from taxation.

154. Property vested in His Majesty for purposes of the government of the Federation shall, save in so far as any Federal law may otherwise provide, be exempt from all taxes imposed by, or by any authority within, a Province or Federated State:

Provided until any Federal law otherwise provides, any property so vested which was immediately before the commencement of Part III of this Act liable, or treated as liable, to any such tax, shall, so long as that tax continues, continue to be liable, or to be treated as liable, thereto.

Exemption from taxes on electricity.

[9][**154-A.** Save in so far as any Federal law may otherwise provide, no Provincial law or law of a Federated State shall impose, or authorise the imposition of, a tax on the consumption or sale of electricity (whether produced by a Government or other persons) which is—

(*a*) consumed by the Federal Government, or sold to the Federal Government for consumption by that Government; or

(*b*) consumed in the construction, maintenance or operation of a Federal Railway by [8c][the Fereral Railway Authority or] a railway company operating that railway, or sold to [8c][that authority or] any such railway company for consumption in the construction, maintenance or operation of a Federal Railway;

and any such law imposing, or authorising the imposition of a tax on the sale of electricity shall secure that the price of electricity sold to the Federal Government for consumption by that Government, or to the Federal Railway Authority or any such railway company as aforesaid for consumption in the construction, maintenance or operation of a Federal Railway, shall be less by the amount of the tax than the price charged to other consumers of a substantial quantity of electricity.]

Exemption of Provincial Governments and Rulers of Federated States in respect of Federal taxation.

155. (*1*) Subject as hereinafter provided, the Government of a Province and the Ruler of a Federated State shall not be liable to Federal taxation in respect of lands or buildings situate in [8c][British] India or income accruing, arising or received in British India;

Provided that—

(*a*) where a trade or business of any kind is carried on by or on behalf

9. *Inserted* by the India and Burma (Miscellaneous Amendments) Act, 1940 (3 & 4 Geo. 6, Ch. 5), S. 3.

of the Government of a Province in any part of British India outside that Province or by a Ruler in any part of British India, nothing in this sub-section shall exempt that Government or Ruler from any Federal taxation in respect of that trade or business, or any operations connected therewith, or any income arising in connection therewith, or any property occupied for the purposes thereof;

(*b*) nothing in this sub section shall exempt a Ruler from any Federal taxation in respect of any lands, buildings or income being his personal property or personal income.

(*2*) Nothing in this Act affects any exemption from taxation enjoyed as of right at the passing of this Act by the Ruler of an Indian State in respect of any Indian Government securities issued before that date.

Adjustment in respect of certain expenses and pensions.

156. Where under the provisions of this Act the expenses of any court or commission, or the pension payable to or in respect of a person who has served under the Crown in India, are charged on the revenues of the Federation or the revenues of a Province, then if—

(*a*) in the case of a charge on the revenues of the Federation the court or commission serves any of the separate needs of a Province, or the person has served wholly or in part in connection with the affairs of a Province; or

(*b*) in the case of charge on the revenues of a Province, the court or commission serves any of the separate needs of the Federation or another Province, or the person has served wholly or in part in connection with the affairs of the Federation or another Province,

there shall be charged on and paid out of the revenues of the Province or, as the case may be, the revenues of the Federation or of the other Province, such contribution in respect of the expenses or pension as may agreed, or as may in default of agreement be determined by an arbitrator to be appointed by the Chief Justice of India.

Duty of Federation and Provinces to suply Secretary of State with Funds.

[10]**157.** (1) The Federation and every Province shall secure that there are from time to time in the hands of the Secretary of State sufficient moneys to enable him to make such payments as he may have to make in respect of liability which falls to be met out of the revenues of the Federation or of the Province as the case may be.

(2) Without prejudice to their obligations under the preceding sub-section, the Federation and every Province shall secure that there are from time to time in the hands of the Secretary of State and the High Commissioner sufficient moneys to enable payment to be made of all pensions payable out of the revenues of the Federation or the Province, as the case may be, in the United Kingdom or through officers accounting to the Secretary of State or to the High Commissioner.

Provisions as to relation of Burma monetary system with India.

[10]**158.** (1) His Majesty in Council may make such provision[10] as may appear to him to be necessary or proper for defining and regulating the relations between the monetary systems of India and Burna and for purposes connected with or ancillary to those purposes, and in particular, but without prejudice to the generality of this section, such provision as may appear to His Majesty to be necessary or proper for the purpose of giving effect to any arrangements with respect to the said matters made before the commencement of Part III of this Act with the approval of

10. Omitted, by the India (Provisional Constitution) Order, 1947.

the Secretary of State by the Governor of Burma in Council with the Governor-General in Council or any other persons.

(2) Any sums required by an Order under this section to be paid by the Federation shall be charged on the revenues of the Federation.

Relief in respect of tax on income taxable both in India and Burma.

[10]**159.** His Majesty in Council may make provision for the grant of relief from any Federal tax on income taxed or taxable in Burma.[11]

Provisions as to customs duties on India-Burma trade.

[10]**160.** With a view to preventing undue disturbance of trade between India and Burma in the period immediately following the separation of India and Burma and with a view to safeguarding the economic interests of Burma during that period, His Majesty may by Order in Council[12] give such directions as he thinks fit for those purposes with respect to the duties which are, while the Order is in force, to be levied on goods imported into or exported from India or Burma and with respect to ancillary aid related matters.

CHAPTER II.

BORROWING AND AUDIT.

Borrowing.

Cessation of borrowing by Secretary of State in Council.

[1]**161.** Upon the commencement of Part III of this Act all powers vested in the Secretary of State in Council of borrowing on the security of the revenues of India shall cease and determine, but nothing in this section affects the provisions of Part XIII of this Act with respect to borrowing in sterling by the Secretary of State.

Borrowing by Federal Government.

162. [1][Subject to the provisions of Part XIII of this Act with respect to borrowing in sterling], the executive authority of the Federation extends to borrowing upon the security of the revenues of the Federation within such limits, if any, as may from time to time be fixed by Act of the Federal Legislature and to the giving of guarantees within such limits, if any, as may be so fixed.

Borrowing by Provincial Governments.

163. [1](*1*) Subject to the provisions of this section, the executive authority of a Province extends to borrowing upon the security of the revenues of the Province within such limits, if any, as may from time to time be fixed by the Act of the Provincial Legislature and to the giving of guarantees within such limits, if any, as may be so fixed.

(*2*) The Federation may, subject to such conditions, if any, as it may think fit to impose, make loans to, or, so long as any limits fixed under the last preceding section are not exceeded, give guarantees in respect of loans raised by, any Province and any sums required for the purpose of making loans to a Province shall be charged on the revenues of the Federation.

(*3*) A Province may not without the consent of the Federation borrow outside India, nor without the like consent raise any loan if there is still

11. *See* the India and Burma (Burma Monetary Arrangements) Order, 1937 [18-3-1937].
12. *See* the India and Burma (Trade Regulation) Order, 1937 [18-3-1937].
1. Omitted, by the India (Provisional Constitution) Order, 1947.

outstanding any part of a loan made to the Province by the Federation or by the Governor-General in Council, or in respect of which a guarantee has been given by the Federation or by the Governor-General in Council.

A consent under this sub-section may be granted subject to such conditions, if any, as the Federation may think fit to impose.

(*4*) A consent required by the last preceding sub-section shall not be unreasonably withheld, nor shall the Federation refuse, if sufficient cause is shown, to make a loan to, or to give a guarantee in respect of a loan raised by, a Province, or seek to impose in respect of any of the matters aforesaid any condition which is unreasonable, and, if any dispute arises whether a refusal of consent, or a refusal to make a loan or to give a guarantee, or any condition insisted upon, is or is not justifiable, the matter shall be referred to [2][the Governor-General and the decision of the Governor-General in his discretion shall be final].

Loans by Federal Government to Federated States.

164. The Federation may, subject to such conditions, if any, as it may think fit to impose, make loans to, or so long as any limits fixed under the last but one preceding section are not exceeded, give guarantees in respect of loans raised by, any Federated State.

Application of Colonial Stock Acts to stocks issued by Federation.

[1][**165.** (*1*) The Colonial Stock Acts, 1877 to 1900, shall, notwithstanding anything to the contrary in those Acts, apply in relation to sterling stock issued after the establishment of the Federation and forming part of the public debt of the Federation as they apply in relation to stock forming part of the public debt of any British Possession mentioned in those Acts, so however that nothing in section twenty of the Colonial Stock Act, 1877, shall be construed as compelling a person desirous of bringing proceedings to proceed in the manner therein specified and that, until Parliament otherwise determines, any conditions prescribed by the Treasury under section two of the Colonial Stock Act, 1900 shall be deemed to have been complied with with respect to all such stock so issued by the Federation.

(*2*) The expression "colonial stock" in section eleven of the Trusts (Scotland) Act 1921 shall include any stock in relation to which the said Acts apply by virtue of this section.

(*3*) In paragraph (*d*) of sub-section (1) of section one of the Trustee Act, 1925, the words "or any other securities the interest in sterling whereon is payable out of, and charged on, the revenues of India" shall be repealed:

Provided that, notwithstanding anything in this Act, any securities which by virtue of the said words were immediately before the commencement of Part III of this Act securities in which a trustee might invest trust funds shall continue to be securities in which a trustee may invest such funds.]

Audit and Accounts.

Auditor-General of India.

166. (*1*) There shall be an Auditor-General of India, who shall be appointed by [3][His Majesty] and shall only be removed from office in like manner and on the like grounds as a judge of the Federal Court.

(*2*) The conditions of service of the Auditor-General shall be such

2. Substituted, by *ibid.*, by the words "an arbitrator appointed by the Chief Justice of India, whose decision shall be final".
3. Substituted, by *ibid.*, by the word 'Governor-General'.

as may be prescribed by [4][His Majesty in Council] and he shall not be eligible for further office under the Crown in India after he has ceased to hold his office:

Provided that neither the salary of an Auditor-General nor his rights in respect of leave of absence, pension or age of retirement shall be varied to his disadvantage after his appointment.

(*3*) The Auditor-General shall perform such duties and exercise such powers in relation to the accounts of the Federation and of the Provinces as may be prescribed by, or by rules made under, an Order of [3][His Majesty in Council], or by any subsequent Act of the [5][Federal] Legislature varying or extending such an Order:

Provided that no Bill or amendment for the purpose aforesaid shall be introduced or moved without the previous sanction of the Governor-General in his discretion.

(*4*) The salary, allowances and pension payable to or in respect of an Auditor-General shall be charged on the revenues of the [5][Federation], and the salaries, allowances and pensions payable to or in respect of members of his staff shall be paid out of those revenues.

Provincial Auditor-General.

167. (*1*) If a Provincial Legislature [5a][after the expiration of two years from the commencement of Part III of this Act] charging the salary of an Auditor General for that Province on the revenues of the Province, an Auditor-General of the Province may be appointed by [6][His Majesty] to perform the same duties and to exercise the same powers in relation to the audit of the accounts of the Province as would be performed and exercised by the Auditor-General of India, if an Auditor-General of the Province had not been appointed:

Provided that no appointment of an Auditor-General in a Province shall be made until the expiration of at least three years from the date of the Act of the Provincial Legislature by which provision is made for an Auditor-General of that Province.

(*2*) The provisions of the last preceding section shall apply in relation to the Auditor-General of a Province and his staff as they apply in relation to the Auditor-General of India and his staff, subject to the following modifications that is to say—

(*a*) a person who is, or has been, Auditor-General of a Province shall be eligible for appointment as Auditor-General of India;

(*b*) in [7][sub-section (3)] of the said section, for the reference to the Federal Legislature there shall be substituted a reference to the Provincial Legislature, and for the reference to the Governor-General there shall be substituted a reference to the Governor; and

(*c*) in sub-section (4) of the said section for the reference to the revenue of the Federation there shall be substituted a reference to revenues of the Province:

Provided that nothing in this section shall derogate from the power of the Auditor-General of India to give such directions in respect to the accounts of Provinces as are mentioned in the next succeeding section.

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4. Substituted, by *ibid.*, by the words 'Order of the Governor-General'.
5. Substituted, by *ibid.*, by the words 'Dominion'.
5a. Omitted, by *ibid.*
6. Substituted, by *ibid.*, by the word 'Governor'.
7. Substituted, by *ibid.*, by the words 'sub-sections (2) and (3)".

Power of Auditor-General of India to give directions as to accounts.

168. The accounts of the Federation shall be kept in such form as the Auditor-General of India may, with the approval of the Governor-General, prescribe and, in so far as the Auditor-General of India may, with the like approval, give any directions with regard to the methods or principles in accordance with which any accounts of Provinces ought to be kept, it shall be the duty of every Provincial Government to cause accounts to be kept accordingly.

Audit reports.

169. The reports of the Auditor-General of India relating to the accounts of the Federation shall be submitted to the Governor-General, who shall cause them to be laid before the Federal Legislature, and the reports of the Auditor-General of India or of the Auditor-General of the Province, as the case may be, relating to the accounts of a Province shall be submitted to the Governor of the Province, who shall cause them to be laid before the Provincial Legislature.

Auditor of Indian Home Accounts.

[51][**170.** (*1*) There shall be an Auditor of Indian Home Accounts who shall be appointed by the Governor-General in his discretion and shall only be removed from office in like manner and on the like grounds as a judge of the Federal Court.

(*2*) The conditions of service of the Auditor of Indian Home Accounts shall be such as may be prescribed by the Governor-General in his discretion:

Provided that neither the salary of an Auditor of Indian Home Accounts nor his rights in respect of leave of absence, pension or age of retirement shall be varied to his disadvantage after his appointment.

(*3*) The Auditor of Indian Home Accounts shall perform such duties and exercise such powers in relation to transactions in the United Kingdom affecting the revenues of the Federation, of the Federal Railway Authority, or of any Province, as may be prescribed by, or by rules made under, an Order of His Majesty in Council, or by any Act of the Federal Legislature varying or extending such an Order:

Provided that no Bill or amendment for the purpose aforesaid shall be introduced or moved without the prior sanction of the Governor-General in his discretion:

(*4*) The reports of the Auditor of Indian Home Accounts relating to such transactions as aforesaid shall be submitted to the Auditor-General of India, or, in the case of transactions affecting the revenues of a Province which has an Auditor-General, to the Auditor-General of the Province, and shall be included by any such Auditor-General in the reports which under this Part of this Act he is required to submit to the Governor-General or, as the case may be, to the Governor.

(*5*) The Auditor of Indian Home Accounts shall be subject to the general superintendence of the Auditor-General of India.

(*6*) The salary, allowances and pension payable to or in respect of the Auditor of Indian Home Accounts shall be charged on the revenues of the Federation, and the salaris, allowances and pensions payable to or in respect of members of his staff shall be paid out of those revenues.

(*7*) His Majesty in Council may require the Auditor of Indian Home Accounts to perform in relation to Burma all or any of the functions which

he performs in relation to India, and may fix the payments to be made in respect of his services from the revenues of Burma to the revenues of the Federation, any may make such incidental and consequential provision as may appear to him to be proper.

Audit of accounts relating to the discharge of the functions of the Crown in relation to Indian States.

[1]**171.** The accounts relating to the discharge of the functions of the Crown in its relations with Indian States shall be audited by the Auditor-General of India, or, in so far as those accounts concern transactions in the United Kingdom, by the Auditor of Indian Home Accounts acting on his behalf and under his general superintendence, and the Auditor-General of India shall make to the Secretary of State annual reports on the accounts so audited by him or on his behalf.

CHAPTER III.

PROPERTY, CONTRACTS, LIABILITIES AND SUITS.

Vesting of lands and buildings.

[1]**172.** (*1*) All lands and buildings which immediately before the commencement of Part III of this Act were vested in His Majesty for the purposes of the government of India shall as from that date—

(*a*) in the case of lands and buildings which are situate in a Province, vest in His Majesty for the purposes of the government of that Province unless they were then used, otherwise than under a tenancy agreement between the Governor-General in Council and the Government of that Province, for purposes which thereafter will be purposes of the Federal Government or of His Majesty's Representative for the exercise of the functions of the Crown in its relations with Indian States, or unless they are lands and buildings formerly used for such purposes as aforesaid, or intended or formerly intended to be so used, and are certified by the Governor-General in Council, or, as the case may be, His Majesty's Representative, to have been retained for future use for such purposes, or to have been retained temporarily for the purpose of the more advantageous disposal by sale or otherwise;

(*b*) in the case of lands and buildings which are situate in a Province but do not by virtue of the preceding paragraph vest in His Majesty for the purposes of the government of that Province, and in the case of lands and buildings which are situate in India elsewhere than in a Province, vest in His Majesty for the purposes of the government of the Federation or for the purposes of the exercise of the functions of the Crown in its relations with Indian States, according to the purpose for which they were used immediately before the commencement of Part III of this Act; and

(*c*) in the case of lands and buildings which are situate elsewhere than in India (except lands and buildings situate in Burma or Aden), vest in His Majesty for the purposes of the government of the Federation or, if they were immediately before the commencement of Part III of this Act used for purposes of the department of the Secretary of State in Council, for the purposes of His Majesty's Government in the United Kingdom.

(*2*) Except with the consent of the Governor-General, effect shall not be given to any proposal for the sale of any lands or buildings which by virtue of this section are vested in His Majesty for the purposes of His Majesty's

1. Omitted, by the India (Provisional Constitution) Order, 1947.

Government in the United Kingdom, or to any proposal for the diversion of any such lands and buildings to uses not connected with the discharge of the functions of the Crown in relation to India or Burma.

(*3*) The lands and buildings vested in His Majesty by virtue of this section for the purpose of His Majesty's Government in the United Kingdom shall be under the management of the Commissioners of Works, and, subject to the provisions of sub-section (2) of this section, the provisions of the Acts relating to the Commissioners of Works shall apply in relation to those lands and buildings as if they had been acquired by the Commissioners in pursuance of those Acts.

(*4*) The provisions of this section shall apply in relation to the contents of buildings vested in His Majesty for the purposes of His Majesty's Government in the United Kingdom, other than any money or securities, as they apply in relation to the buildings themselves:

Provided that, in the case of such articles and classes of articles as may be agreed upon between the Secretary of State and the Governor-General, the provisions of sub-section (2) of this section shall not apply and notwithstanding anything in sub-section (3) of this section, the contents of those buildings shall be under the control of the Secretary of State.

(*5*) Any question which may arise within the five years next following the commencement of Part III of this Act as to the purposes for which any lands or buildings are by virtue of this section vested in His Majesty may be determined by His Majesty in Council.

Provisions as to other property.

[2]**173.** (*1*) Subject to the provisions of this and the last preceding section, all property vested in His Majesty which by virtue of the delegation from the Secretary of State in Council or otherwise is immediately before the commencement of Part III of this Act in the possession or under the control of, or held on account of, the Governor-General in Council or any Local Government shall, as from the commencement of Part III of this Act, vest in His Majesty—

(*a*) for the purposes of the Government of the Federation; or

(*b*) for the purposes of the exercise of the functions of the Crown in its relations with Indian States; or

(*c*) for the purposes of the Government of a Province,

according as the purposes for which the property was held immediately before the commencement of Part III of this Act will thereafter be purposes of the Government of the Federation, purposes of His Majesty's Representative for the exercise of the said functions of the Crown or purposes of the Government of a Province:

Provided that—

(i) all moneys which immediately before the commencement of Part III of this Act were in the public account of which the Governor-General in Council was custodian shall be vested in His Majesty for the purposes of the Government of the Federation;

(ii) all credits and debits of the Local Government of any Governor's Province (other than Burma) in account with the Governor-General in Council shall be deemed to be credits and debits of the corresponding Province under this Act in account with the Federation.

(*2*) Subject as aforesaid, all other property vested in His Majesty and under the control of the Secretary of State in Council immediately

2. Omitted, by *ibid.*

before the commencement of Part III of this Act shall as from the commencement of Part III of this Act vest in His Majesty for the purposes of the Government of the Federation, for the purposes of the exercise of the functions of the Crown in its relations with Indian States or for the purposes of the Government of a Province, according as the Secretary of State may determine having regard to the circumstances of the case, and the Secretary of State shall have power to and shall deal with the property accordingly.

(*3*) In this section "property" includes money, securities, bank balances and moveable property of any description.

(*4*) Arrears of any taxes outstanding immediately before the commencement of Part III of this Act shall be deemed to be due to and may be recovered by the Federal Government or a Provincial Government according as the proceeds of any such tax imposed after the commencement of Part III of this Act would be due to and recoverable by the Federal Government or the Provincial Government.

(*5*) This section shall apply in relation to any equipment, stores, moneys, bank balances and other property held in connection with His Majesty's Indian forces stationed in Burma (not being forces raised in Burma) as it applies in relation to property held for purposes which will be purposes of the Government of the Federation, but, save as aforesaid, nothing in this section applies to any property situate in Burma or Aden, or to arrears of taxes in Burma or Aden, or to any property which by virtue of any delegation from the Secretary of State in Council or otherwise is, immediately before the commencement of Part III of this Act, in the possession or under the control of, or held on account of, the Local Government of Burma or Aden.

(*6*) Nothing in this section shall affect any adjustments made or to be made by or under this Act by reason of the creation before the commencement of Part III of this Act of the Provinces of Orissa and Sind.

Property accruing by escheat or lapse, or as bona vacantia.

174. Subject as hereinafter provided, any property in India accuring to His Majesty by escheat or lapse, or as *bona vacantia* for want of a rightful owner, shall, if it is property situate in a Province, vest in His Majesty for the purposes of the government of that Province, and shall in any other case vest in His Majesty for the purpose of the government of the Federation.

Provided that any property which at the date when it accrued to His Majesty was in the possession or under the control of the Federal Government or the Government of a Province shall, according as the purposes for which it was then used or held were purposes of the Federation or of a Province, vest in His Majesty for the purposes of the Government of the Federation or for the purposes of the government of that Province.

Power to acquire property and to make contracts, etc.

175. (*1*) The executive authority of the Federation and of a Province shall extend, subject to any Act of the appropriate Legislature, to the grant, sale, disposition or mortgage of any property vested in His Majesty for the purposes of the government of the Federation or of the Province, as the case may be, and to the purchase or acquisition of property on behalf of His Majesty for those purposes respectively, and to the making of contracts:

[3][Provided that any land or building used as an official residence of the Governor-General or a Governor shall not be sold, nor any change made in

3. Omitted, by *ibid.*

the purposes for which it is being used, except with the concurrence, in his discretion, of the Governor-General or the Governor, as the case may be].

(2) All property acquired for the purposes of the Federation or of a Province [4][or of the exercise of the functions of the Crown in its relations with Indian State], as the case may be, shall vest in His Majesty for those purposes.

(3) [4][Subject to the provisions of this Act with respect to the Federal Railway Authority], all contracts made in the exercise of the executive authority of the Federation or of a Province shall be, expressed to be made by the Governor-General, or by the Governor of the Province, as the case may be, and all such contracts and all assurances of property made in the exercise of that authority shall be executed on behalf of the Governor-General or Governor by such persons and in such manner as he may direct or authorise.

(4) Neither the Governor-General, nor the Governor of a Province, nor the Secretary of State shall be personally liable in respect of any contract or assurance made or executed for the purposes of this Act, or for the purposes of the Government of India Act or of any Act repealed thereby, nor shall any person making or executing any such contract or assurance on behalf of any of them be personally liable in respect thereof.

Suits and procedings.

176. (1) The Federation may sue or be sued by the name of the Federation of India and a Provincial Government may sue or be sued by the name of the Province, and, without prejudice to the subsequent Provisions of this chapter, may, subject to any provisions which may be made by Act of the Federal or a Provincial Legislature enacted by virtue of powers conferred on that Legislature by this Act, sue or be sued in relation to their respective affairs in the like cases as the Secretary of State in Council might have sued or been sued if this Act had not been passed.

[4][(2) Rules of Court may provide that, where the Federation, the Federal Railway Authority, or a Province sue or are sued n the United Kingdom, service of all proceedings may be effected upon the High Commissioner for India or such other representative in the United Kingdom of the Federation, Authority or Province, as may be specified in the rules].

Existing contracts of Secretary of State in Council.

[4][**177.** (1) Without prejudice to the special provisions of the next succeeding section relating to loans, guarantees and other financial obligations, any contract made before the commencement of Part III of this Act by, or on behalf of, the Secretary of State in Council shall, as from that date—

(a) if it was made for purposes which will after the commencement of Part III of this Act be purposes of the Government of a Province, have effect as if it had been made in behalf of that Province; and

(b) in any other case have effect as if it had been made on behalf of the Federation,

and references in any such contract to the Secretary of State in Council shall be construed accordingly, and any such contract may be enforced in accordance with the provisions of the next but one succeeding section.

(2) This section does not apply in relation to contracts solely in connection with the affairs of Burma or Aden, or solely for purposes which will after the commencement of Part III of this Act be purposes of His Majesty's

4. Omitted, by *ibid.*

Representative for the exercise of the functions of the Crown in its relations with Indian States.

Special provisions as to existing loans, guarantees and other financial obligations.

178. [5][(*1*) All liabilities in respect of such loans, guarantees and other financial obligations of the Secretary of State in Council as are outstanding immediately before the commencement of Part III of this Act and were secured on the revenues of India shall, as from that date, be liabilities of the Federation and shall be secured upon the revenues of the Federation and of all the Provinces.

(*2*) All enactments relating to any such loans, guarantees and other financial obligations of the Secretary of State in Council as aforesaid shall, in relation to those loans, guarantees and obligations, continue to have effect with the substitution therein, except in so far as the context otherwise requires, of references to the Secretary of State for references to the Secretary of State in Council, and with such other modifications and such adaptations as His Majesty in Council may deem necessary].

(*3*) No deduction in respect of taxation imposed by or under any existing Indian law or any law of the Federal or a Provincial Legislature shall be made from any payment of principal or interest in respect of any securities, the interest whereon is payable in sterling, being a payment which would, but for the provisions of this Act,[6] have fallen to be made by the Secretary of State in Council.

(*4*) If in the case of any Local Government in India there are outstanding immediately before the commencement of Part III of this Act any loans or other financial obligations secured upon the revenues of the Province, all liabilities in respect of those loans and obligations shall, as from that date, be liabilities of the Government of and shall be secured upon the revenues of, the corresponding Province under this Act.

(*5*) Any liabilities in respect of any such loan, guarantee or financial obligation as is mentioned in this section may be enforced in accordance with the provisions of the next succeeding section.

(*6*) The provisions of this section apply to the liabilities of the Secretary of State in Council in respect of the Burma Railways three per cent. Debenture Stock, but, save as aforesaid, do not apply to any liability solely in connection with the affairs of Burma or Aden.

Legal proceedings as to certain matters.

[5]**179.** (*1*) Any proceedings which, if this Act had not been passed, might have been brought against the Secretary of State in Council may, in the case of any liability arising before the commencement of Part III of this Act or arising under any contract or statute made or passed before that date, be brought against the Federation or a Province, according to the subject-matter of the proceedings, or, at the option of the person by whom the proceedings are brought, against the Secretary of State, and any sum ordered to be paid by way of debt, damages or costs in any such proceedings, and any costs or expenses incurred in or in connection with the defence thereof, shall be paid out of the revenues of the Federation or the Province, as the case may be, or, if the proceedings are brought against the Secretary of State, out of such revenues as the Secretary of State may direct.

The provisions of this sub-section shall apply with respect to proceedings arising under any contract declared by the terms thereof to be supple-

5. Omitted, by *ibid.*
6. The words 'and of the Indian Independence Act, 1947' were added, by *ibid.*

mental to any such contract as is mentioned in those provisions as they apply in relation to the contracts so mentioned.

(*2*) If at the commencement of Part III of this Act any legal proceedings are pending in the United Kingdom or in India to which the Secretary of State in Council is a party, the Secretary of State shall be deemed to be substituted in those proceedings for the Secretary of State in Council, and the provisions of sub-section (*1*) of this section shall apply in relation to sums ordered to be paid, and costs or expenses incurred, by the Secretary of State or the Secretary of State in Council in or in connection with any such proceedings as they apply in relation to sums ordered to be paid in, and costs or expenses incurred in or in connection with the defence of, proceedings brought against the Secretary of State under the said sub-section (*1*).

(*3*) Any contract made in respect of the affairs of the Federation or a Province by or on behalf of the Secretary of State after the commencement of Part III of this Act may provide that any proceedings under that contract shall be brought in the United Kingdom by or against the Secretary of State and any such proceedings may be brought accordingly, and any sum ordered to be paid by the Secretary of State by way of debt, damages or costs in any such proceedings, and any costs or expenses incurred by the Secretary of State in or in connection therewith, shall be paid out of the revenues of the Federation or the Province, as the case may be.

(*4*) Nothing in this section shall be construed as imposing any liability upon the exchequer of the United Kingdom in respect of any debt, damages, costs or expenses in or in connection with any proceedings brought or continued by or against the Secretary of State by virtue of this section, or as derogating from the provisions of sub-section (1) of the last preceding section.

(*5*) This section does not apply in relation to contracts or liabilites solely in connection with the affairs of Burma or Aden, other than liabilities which are by this Act made liabilities of the Federation, or to contracts or liabilities for purposes which will, after the commencement of Part III of this Act, be purposes of His Majesty's Representative for the exercise of the functions of the Crown in its relations with Indian States.

Contracts in connection with functions of Crown in its relations with Indian States.

[7]**180.** (1) Any contract made before the commencement of Part III of this Act by or on behalf of the Secretary of State in Council solely in connection with the exercise of the functions of the Crown in its relations with Indian States shall, as from the commencement of Part III of this Act, have effect as if it had been made on behalf of His Majesty and references in any such contract to the Secretary of State in Council shall be construed accordingly.

(*2*) Any proceedings which if this Act had not been passed might have been brought by or against the Secretary of State in Council in respect of any such contract as aforesaid may be brought by or against the Secretary of State and if at the commencement of Part III of this Act any proceedings in respect of any such contract are pending in the United Kingdom or in India to which the Secretary of State in Council is a party, the Secretary of State shall be deemed to be substituted in those proceedings for the Secretary of State in Council.

(*3*) Any contract made after the commencement of Part III of this Act on behalf of His Majesty solely in connection with the exercise of the said functions of the Crown shall, if it is such a contract as would have

7. Omitted, by *ibid.*

been legally enforceable by or against the Secretary of State in Council, be legally enforceable by or against the Secretary of State.

(4) Any sums ordered to be paid by the Secretary of State by way of debt, damages or costs in any such proceedings as are mentioned in this section and any costs or expenses incurred by him in or in connection with the prosecution or defence thereof shall be deamed to be sums required for the discharge of the functions of the Crown in its relations with Indian States, and any sum received by the Secretary of State by virtue of any such proceedings shall be paid or credited to the Federation.

PART VIII.

THE FEDERAL RAILWAY AUTHORITY.

Executive authority in respect of railways to be exercised by Federal Railway Authority.

[1]**181.** (1) The executive authority of the Federation in respect of the regulation and the construction, maintenance and operation of railways shall be exercised by a Federal Railway Authority (hereinafter referred to as "the Authority"),

(2) The said executive authority extends to the carrying on in connection with any Federal railways of such undertakings as, in the opinion of the Authority, it is expedient should be carried on in connection therewith and to the making and carrying into effect of arrangements with other persons for the carrying on by those persons of such undertakings:

Provided that, as respects their powers under this sub-section, the Authority shall be subject to any relevant provisions of any Federal, Provincial or existing Indian law, and to the relevant provisions of the law of any Federated State, but nothing in this sub-section shall be construed as limiting the provisions of Part VI of this Act regulating the relations of the Federation with Provinces and States.

(3) Notwithstanding anything in this section, the Federal Government or its officers shall perform in regard to the construction, equipment, and operation of railways such functions for securing the safety both of members of the public and of persons operating the railways, including the holding of inquiries into the causes of accidents, as in the opinion of the Federal Government should be performed by persons independent of the Authority and of any railway administration.

So much of Part X of this Act as provides that powers in relation to railway services of the Federation shall be exercised by the Authority shall not apply in relation to officers of the Federal Government employed in the performance of any of the functions mentioned in this sub-section.

Composition, etc., of Railway Authority.

[1]**182.** (1) Not less than three-sevenths of the members of the Authority shall be persons appointed by the Governor-General in his discretion, and the Governor-General shall in his discretion appoint a member of the Authority to be the President thereof.

(2) Subject as aforesaid, the provisions of the Eighth Schedule to this Act, as supplemented or amended by any Act of the Federal Legislature for the time being in force, shall have effect with respect to the appointment, qualifications and conditions of service of members of the Authority, and with respect to the Authority's proceedings, executive staff and liability to income-tax:

1. Omitted, by the India (Provisional Constitution) Order, 1947.

Provided that, except with the previous sanction of the Governor-General in his discretion, there shall not be introduced into, or moved in, either Chamber of the Federal Legislature any Bill or any amendment for supplementing or amending the provisions of the said Schedule.

Directions and principles to be observed by Railway Authority.

[1]**183.** [1](*1*) The Authority in discharging their functions under this Act shall act on business principles, due regard being had by them to the interests of agriculture, industry, commerce and the general public, and in particular shall make proper provision for meeting out of their receipts on revenue account all expenditure to which such receipts are applicable under the provisions of this Part of this Act.

(*2*) In the discharge of their said functions the Authority shall be guided by such instructions on questions of policy as may be given to them by the Federal Government.

If any dispute arises under this sub-section between the Federal Government and the Authority as to whether a question is or is not a question of policy, the decision of the Governor-General in his discretion shall be final.

(*3*) The provisions of sub-section (*1*) of this section shall apply in relation to the discharge by the Federal Government of their functions with respect to railways as they apply in relation to the functions of the Authority, but nothing in this sub-section shall be construed as limiting the powers of the Governor-General under the next succeeding sub-section.

(*4*) The provisions of this Act relating to the special responsibilities of the Governor-General, and to his duty as regards certain matters to exercise his functions in his discretion or to exercise his individual judgment, shall apply as regards matters entrusted to the Authority as if the executive authority of the Federation in regard to those matters were vested in him, and as if the functions of the Authority as regards those matters were the functions of ministers, and the Governor-General may issue to the Authority such directions as he may deem necessary as regards any matter which appears to him to involve any of his special responsibilities, or as regards which he is by or under this Act required to act in his discretion or to exercise his individual judgment, and the Authority shall give effect to any directions so issued to them.

Conduct of business between Railway Authority and Federal Government.

[1]**184.** [1](*1*) The Governor-General exercising his individual judgment, but after consultation with the Authority, may make rules for the more convenient transaction of business arising out of the relations between the Federal Government and Authority.

(*2*) The rules shall include provisions requiring the Authority to transmit to the Federal Government all such information with respect to their business as may be specified in the rules, or as the Governor-General may otherwise require to be so transmitted, and in particular provisions requiring the Authority and their chief executive officer to bring to the notice of the Governor-General and matter under consideration by the Authority or by that officer which involves, or appears to them or him likely to involve, any special responsibility of the Governor-General.

Acquisition and sale of land, contracts and working agreements.

[1]**185.** [1](*1*) Expect in such classes of case as may be specified in regulations to be made by the Federal Government, the Authority shall not acquire or dispose of any land, and, when it is necessary for the Authority to acquire compulsorily any land for the purposes of

their functions, the Federal Government shall cause that land to be acquired on their behalf and at their expense.

(*2*) Contracts made by or on behalf of the Authority shall be enforceable by or against the Authority and not by or against the Federation, and, subject to any provision which may hereafter be made by Act of the Federal Legislature, the Authority may sue and be sued in the like manner and in the like cases as a company operating a railway may sue and be sued:

Provided that this sub-section does not apply in relation to any contract declared by its terms to be supplemental to a contract made before the establishment of the Authority, and any such supplemental contract may be enforced in any manner in which the principal contract may be enforced.

(*3*) The Authority may make working agreements with, and carry out working agreements made with, any Indian State or person owning or operating any railway in India, or in territories adjacent to India, with respect to the persons by whom and the terms on which any of the railways with which the parties are respectively concerned shall be operated.

Finance of the Railway Authority.

[1]**186.** (*1*) The Authority shall establish, maintain and control a fund (which shall be known as the "Railway Fund") and all moneys received by the Authority, whether on revenue account or on capital account, in the discharge of their functions and all moneys provided, whether on revenue account or on capital account, out of the revenues of the Federation to enable them to discharge those functions shall be paid into that Fund, and all expenditure, whether on revenue account or on capital account, required for the discharge of their functions shall be defrayed out of that Fund:

Provided that nothing in this sub-section shall prevent the Authority from establishing and maintaining separate provident funds for the benefit of persons who are or have been employed in connection with railways.

(2) The receipts of the Authority on revenue account in any financial year shall be applied in—

(*a*) defraying working expenses;

(*b*) meeting payments due under contracts or agreements to railway undertakings;

(*c*) paying pensions, and contributions to provident funds;

(*d*) repaying to the revenues of the Federation so much of any pensions and contributions to provident funds charged by this Act on those revenues as is attributable to service on railways in India;

(*e*) making due provision for maintenance, renewals, improvements and depreciation;

(*f*) making to the revenues of the Federation any payments by way of interest which they are required by this Part of this Act to make; and

(*g*) defraying other expenses properly chargeable against revenue in that year.

(*3*) Any surplus on revenue account shown in the accounts of the Authority shall be apportioned between the Federation and the Authority in accordance with a scheme to be prepared, and from time to time reviewed, by the Federal Government, or, until such a scheme has been prepared, in accordance with the principles which immediately before the establishment of the Authority regulated the application of surpluses in railway accounts, and any sum apportioned to the Federation under this sub-

section shall be transferred accordingly and shall form part of the revenues of the Federation.

(4) The Federation may provide any moneys, whether on revenue account or capital account, for the purposes of the Railway Authority, but, where any moneys are so provided, the provision thereof shall be deemed to be expenditure and shall accordingly be shown as such in the estimates of expenditure laid before Chambers of the Legislature.

Provisions as to certain obligations of the Railway Authority.

[1]**187.** [1](1) There shall be deemed to be owing from the Authority to the Federation such sum as may be agreed or, in default of agreement, determined by the Governor-General in his discretion, to be equivalent to the amount of the moneys provided, whether before or after the passing of this Act, out of the revenues of India or of the Federation for capital purposes in connection with railways in India (exclusive of Burma) and the Authority shall out of their receipts on revenue account pay to the Federation interest on that amount at such rate as may be so agreed or determined, and also make payments in reduction of the principal of that amount in accordance with a repayment scheme so agreed or determined.

For the purposes of this sub-section, where the Secretary of State in Council has assumed or incurred any obligation in connection with any such railways, he shall be deemed to have provided for the said purposes an amount equal to the capital value of that obligation as shown in the accounts of the Government of India immediately before the establishhment of the Authority.

Nothing in this sub-section shall be construed as preventing the Authority from making payments to the Federation in reduction of the principal of any such amount as aforesaid out of moneys other than receipts on revenue account.

(2) It shall be an obligation of the Authority to repay to the Federation any sums defraved out of the revenues of Federation in respect of any debt, damages, costs, or expenses in, or in connection with, any proceedings brought or continued by or against the Federation or against the Secretary of State under Part VII of this Act in respect of railways in India.

(3) It shall be an obligation of the Authority to pay to any Province or Indian State such sums as may be equivalent to the expenses incurred by that Province or State in the provision of police required for the maintenance of order on Federal railway premises, and any question which may arise between the Authority and a Province or State as to the amount of any expenses so incurred shall be determined by the Governor-General in his discretion.

Investment of funds of Railway Authority.

[1]**188.** [1]Subject to such conditions, if any, as may be prescribed by the Federal Government, the Authority may from time to time invest any moneys in the railway fund or any provident fund which are not for the time being required to meet expenses properly defrayable out of that fund, and may, subject as aforesaid, from time to time transfer and realise investments made by them.

Special provisions as to certain existing funds.

[1]**189.** [1](1) Nothing in the foregoing provisions of this Part of this Act shall be construed as entitling the Authority to require that any moneys which immediately before the establishment of the Authority were held by

the Governor-General in Council on account of any railway depreciation fund, reserve fund or provident fund shall be transferred to the Authority for investment by them, but the Authority may from time to time require the transfer to themselves of so much of any such fund as they require to defray expenditure chargeable against that fund, and the Federal Government shall credit each such fund with interest on the untransferred balance thereof at such rate as may be agreed, or, in default of agreement determined by the Governor-General in his discretion.

(2) In this section references to any such fund as aforesaid shall be construed as references to so much of that fund as is not attributable to the railways of Burma.

Audit and annual reports.

[1]**190.** (1) The accounts of the receipts and expenditure of the Authority shall be audited and certified by, or on behalf of the Auditor-General of India.

(2) The Authority shall publish annually a report of their operations during the preceding year and a statement of accounts in a form approved by the Auditor-General.

Railway Rates Committee.

[1]**191.** The Governor-General may from time to time appoint a Railway Rates Committee to give advice to the Authority in connection with any dispute between persons using, or desiring to use, a railway and the Authority as to rates or traffic facilities which he may require the Authority to refer to the committee.

Bills and amendments for regulating rates and fares to require recommendation of Governor-General.

[1]**192.** A Bill or amendment making provision for regulating the rates or fares to be charged on any railway shall not be introduced or moved in either chamber of the Federal Legislature except on the recommendation of the Governor-General.

Obligation of Railway Authority and Federated States to afford mutual traffic facilities and to avoid unfair discrimination, etc.

[1]**193.** (1) It shall be the duty of the Authority and every Federated State so to exercise their powers in relation to the railways with which they are respectively concerned as to afford all reasonable facilities for the receiving, forwarding, and delivering of traffic upon and from those railways, including the receiving, forwarding and delivering of through rates, and as to secure that there shall be between one railway system and another no unfair discrimination, by the granting of undue preferences or otherwise, and no unfair or uneconomic competition.

(2) Any complaint by the Authority against a Federated State or by a Federated State against the Authority on the ground that the provisions of the preceding sub-section have not been complied with shall be made to and determined by the Railway Tribunal.

Appeal by State to Railway Tribunal from certain directions of Railway Authority.

[1]**194.** If the Authority, in the exercise of any executive authority of the Federation in relation to interchange of traffic, or maximum or minimum rates and fares, or station or service terminal charges, give any direction to a Federated State, the State may complain that the direction discriminates unfairly against, the railways of the State, or imposes on the State an obligation to afford facilities which are not in

the circumstances reasonable, and any such complaint shall be determined by the Railway Tribunal.

Construction and re-construction of railways.

[1]**195.** (*1*) The Governor-Gentral acting in his discretion shall make rules requiring the Authority and any Federated State to give notice in such cases as the rules may prescribe of any proposal for constructing a railway or for altering the alignment or gauge of a railway, and to deposit plans.

(*2*) The rules so made shall contain provisions enabling objections to be lodged by the Authority or by a Federated State on the ground that the carrying out of the proposal will result in unfair or uneconomic competition with a Federal railways or a State railway, as the case may be, and, if an objection so lodged is not withdrawn within the prescribed time, the Governor-General shall refer to the Railway Tribunal the question whether the proposal ought to be carried into effect, either without modification or with such modification as the Tribunal may approve, and the proposal shall not be proceeded with save in accordance with the decision of the tribunal.

(*3*) This section shall not apply in any case where the Governor-General in his discretion certifies that for reasons connected with defence effect should, or should not, be given to a proposal.

Railway Tribunal.

[1]**196.** (*1*) There shall be a Tribunal (in this Act refered to as "the Railway Tribunal") consisting of a President and two other persons to be selected to act in each case by the Governor-General in his discretion from a panel of eight persons appointed by him in his discretion, being persons with railway, administrative, or business experience.

(*2*) The President shall be such one of the Judges of the Federal Court as may be appointed for the purpose by the Governor-General in his discretion after consultation with the Chief Justice of India and shall hold office for such period of not less than five years as may be specified in the appointment, and shall be eligible for re-appointment for a further period of five years or any less period:

Provided that, if the President ceases to be a Judge of the Federal Court, he shall thereupon cease to be President of the Tribunal and, if he is for any reason temporarily unable to act, the Governor-General in his discretion may after the like consulation appoint another Judge of the Federal Court to act for the time being in his place.

(*3*) It shall be the duty of the Railway Tribunal to exercise such jurisdiction as is conferred on it by this Act, and for that purpose the Tribunal may make such orders, including interim orders, orders varying or discharging a direction or other of the Authority, orders for the payment of compensation or damages and of costs and orders for the production of documents and the attendance of witnesses, as the circumstances of the case may require, and it shall be the duty of the Authority and of every Federated State and of every other person or authority affected thereby to give effect to any such order.

(*4*) An appeal shall lie to the Federal Court from any decision of the Railway Tribunal on a question of law, but no appeal shall lie from the decision of the Federal Court on any such appeal.

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1. Omitted, by *ibid.*

(5) The Railway Tribunal or the Federal Court, as the case may be, may, on application made for the purpose, if satisfied that in view of an alteration in the circumstances it is proper so to do, vary or revoke any previous order made by it.

(6) The President of the Railway Tribunal may, with the approval of the Governor-General in his discretion, make rules regulating the practice and procedure of the Tribunal and the fees to be taken in proceedings before it.

(7) Subject to the provisions of this section relating to appeals to the Federal Court, no Court shall have any jurisdiction with respect to any matter with respect to which the Railway Tribunal has jurisdiction.

(8) There shall be paid out of the Federation to the members of the Railway Tribunal other than the President such remuneration as may be determined by the Governor-General in his discretion, and the administrative expenses of the Railway Tribunal, including any such remuneration as aforesaid, shall be charged on the revenues of the Federation, and any fees or other moneys taken by the Tribunal shall form part of those revenues.

The Governor-General shall exercise his individual judgment as to the amount to be included in respect of the administrative expenses of the Railway Tribunal in any estimates of expenditure laid by him before the Chambers of the Federal Legislature.

Rights of railway companies in respect of arbitration under contracts.

[1]**197.** (1) Without prejudice to the general provisions of this Act with respect to rights and liabilities under contracts made by or on behalf of the Secretary of State in Council, the provisions of this section shall have effect with respect to any contract so made with a railway company which immediately before the commencement of Part III of this Act was operating a railway in British India.

(2) If a dispute arises under any such contract between the railway company concerned and either the Authority or the Federal Government, and if the matter in dispute is of such a nature that under the contract the company might require or, but for some provision of this Act, might have required, it to be submitted to arbitration, the dispute shall be deemed to have arisen between the company and the Secretary of State, and the provisions of the contract relating to the determination of such a dispute shall have effect with the substitution of the Secretary of State for the Secretary of State in Council.

Any award made in an arbitration under the foregoing provisions of this section and any settlement of the dispute agreed to by the Secretary of State with the concurrence of his advisers shall be binding on the Federal Government and the Authority, and any sum which the Secretary of State may become liable or may so agree to pay by of debt, damage or costs, and any costs or expenses incurred by him in connection with the matter, shall be paid out of the revenues of the Federation and shall be charged on those revenues but shall be a debt due to the Federation from the Authority.

Railways in Indian States which have not federated.

[1]**198.** If and in so far as His Majesty's Representative for the exercise of the functions of the Crown in its relations with Indian States may entrust to the Authority the performance of any functions in relation to railways in an Indian State which is

not a Federal State, the Authority shall undertake the performance of those functions.

Official directors of Indian railway companies.

[1]**199.** Any powers of the Secretary of State in Council with respect to the appointment of directors and deputy directors of Indian railway companies shall be exercised by the Governor-General in his discretion after consultation with the Authority.

PART IX.

THE JUDICATURE.

CHAPTER I.[1]

THE FEDERAL COURT.

Establishment and constitution of Federal Court.

200. (*1*) There shall be a Federal Court consisting of a Chief Justice of India and such number of other judges as [1a][His Majesty] may deem necessary, but unless and until [1b]an address has been presented by the Federal Legislature to the Governor-General for submission to His Majesty praying for an increase in the number of judges, the number of puisne judges shall not exceed six.

(2) Every judge of the Federal Court shall be appointed by [1c][His Majesty by warrant under the Royal Sign Manual and shall hold office until he attains the age of sixty-five years:

Provided that—

(*a*) a judge may by resignation under his hand addressed to the Governor-General resign his office;

(*b*) a judge may be removed from his office by [1c][His Majesty by warrant under the Royal Sign Manual] on the ground of misbehaviour or of infirmity of mind or body, if the Judicial Committee of the Privy Council, or reference being made to them by [1d][His Majesty], report that the judge ought on any such ground to be removed.

(*3*) A person shall not be qualified for appointment as a judge of the Federal Court unless he—

(*a*) has been for at least five years a judge of a High Court [1d][in British India or in a Federal State]; or

(*b*) is a barrister of England or Northern Ireland of at least ten years standing, or a member of the Faculty of Advocates in Scotland of at least ten years standing; or

(*c*) has been for at least ten years a pleader of a High Court in British India or in a Federal State or of two or more such Courts in succession:

Provided that—

[1d][(i) a person shall not be qualified for appointment as Chief Justice of India unless he is, or when first appointed to judicial office

1. The Chapter except Ss. 206 and 215 came into force on 1-10-1937, subject to proviso as to S. 205 under Government of India (Federal Court) Order, 1936, para. 3 [16-12-1936]. S. 215 has since come into force; *see* foot-remark under that section.

1a. Substituted, by *ibid.*, by the words "the Governor-General".

1b. Substituted, by *ibid.*, by the words "a resolution is passed by the Dominion Legislature approving".

1c. Substituted, by *ibid.*, by the words "order of the Governor-General".

1d. Omitted, by *ibid.*

was, a barrister, a member of the Faculty of Advocates or a pleader; and]

(ii) in relation to the Chief Justice of India, for the references in paragraphs (*b*) and (*c*) of this sub-section to ten years there shall be substituted references to fifteen years.

In computing for the purposes of this sub-section the standing of a barrister or a member of the Faculty of Advocates, or the period during which a person has been a pleader, any period during which a person has held judicial office after he became a barrister, a member of the Faculty of Advocates or a pleader, as the case may be, shall be included.[1e]

(*4*) Every person appointed to be a judge of the Federal Court shall, before he enters upon his office, make and subscribe, before the Governor-General or some person appointed by him an oath according to the form set out in that behalf in the Fourth Schedule to this Act.

Salaries, etc., of judges.

201. The judges of the Federal Court shall be entitled to such salaries and allowances, including allowances for expenses in respect of equipment, and travelling upon appointment, and to such rights in respect of leave and pensions, as may from time to time be fixed by [1a][His Majesty in Council]:

Provided that neither the salary of a judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment.

Temporary appointment of acting Chief Justice.

202. If the office of Chief Justice of India becomes vacant, or if the Chief Justice is, by reason of absence or for any other reason, unable to perform the duties of his office, these duties shall, until some person [1f][appointed by His Majesty] to the vacant office has entered on the duties thereof, or until the Chief Justice has resumed his duties, as the case may in his discretion appoint [1g][for the purpose].

[2][(2) If the office of any other judge of the Federal Court becomes vacant, or if any such judge is appointed to act temporarily as Chief Justice of India or is by reason of absence, or for any other reason, unable to perform the duties of his office, the Governor-General may in his discretion appoint a judge of a High Court who is duly qualified for appointment as a judge of the Federal Court to act temporarily as a judge of that court, and the person so appointed shall, unless the Governor-General in his discretion thinks fit to revoke his appointment, be deemed to be a judge of the Federal Court until some person [1f][appointed by His Majesty] to the vacant office has entered on the duties thereof, or until the permanent judge has resumed his duties.]

[3][(*3*) If the Governor-General in his discretion is satisfied, after considering a report from the Chief Justice of India—

(*a*) that in view of some personal interest which any judge of the Federal Court has in the decision of any particular case, or of some part

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1e. The following words were added, by *ibid.*, after sub-section (3)—
"In this sub-section the expression 'High Court' includes a High Court in an ecceding State and any Court which was a High Court in British India".

1f. Substituted, by *ibid.*, by the words 'permanently appointed'.

1g. Substituted, by the words 'as acting Chief Justice'.

2. *Inserted* by the India and Burma (Miscellaneous Amendment) Act, 1940 (3 & 4 Geo. 6, Ch. 5) S. 5.

3. *Added* by the India (Federal Court Judges) Act, 1942 (5 & 6 Geo. 6, Ch. 7), S. 1 (with *retrospective* effect).

which any judge of the Federal Court has already taken, as judge or counsel or otherwise, in or in relation to any particular case (whether or not while it was before the Federal Court), that judge ought not to take in the hearing and determination thereof, and

(*b*) that without that judge there are not sufficient judges of the Federal Court available to sit for that purpose,

the Governor-General may in his discretion appoint a judge of a High Court who is duly qualified for appointment as judge of the Federal Court to act temporarily as a judge of that Court and the person so appointed shall, unless the Governor-General in his discretion thinks fit to revoke his appointment, be deemed to be a Judge of the Federal Court until that case has been heard and determined by the Federal Court].

Seat of Federal Court.

203. (*1*) The Federal Court shall be a court of record and shall sit in Delhi and at such other place or places, if any, as the Chief Justice of India may, with the approval of the Governor-General, from time to time.

Original jurisdiction of Federal Court.

204. (*1*) Subject to the provisions of this Act, the Federal Court shall, to the exclusion of any other court, have an original jurisdiction in any dispute between any two or more of the following parties, that is to say, the Federation, any of the Provinces or any of the Federated States, if and in so far as the dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends:

Provided that the said jurisdiction shall not extend to—

(*a*) a dispute to which a State is a party, unless the dispute—

(i) concerns the interpretation of this Act or of an Order in Council made thereunder[3a], or the ertent of the ltgislative or executive authority vested in the Federation by virtue of the Instrument of Accession of that State; or

(ii) arises under an agreement made under Part VI of this Act in relation to the administration in that State of a law of the Federal Legislature, or otherwise concerns some matter with respect to which the Federal Legislature has power to make laws for that State; or

[3b][(iii) arises under an agreement made after the establishment of the Federation, with the approval of His Majesty's Representative for the exercise of the functions of the Crown in its relations with Indian States, between that State and the Federation or a Province, being an agreement which expressly provides that the said jurisdiction shall extend to such a dispute];

(*b*) a dispute arising under any agreement which expressly provides that the said jurisdiction shall not extend to such a dispute.

(*2*) The Federal Court in the exercise of its original jurisdiction shall not pronounce any judgment other than a declaratory judgment.

3a. After this, inserted by *ibid.*, the words—

"Before the date of the establishment of the Dominion or of an order made thereunder on or after that date, or the interpretation of the Indian Independence Act, 1947, or of any order made thereunder".

3b. Substituted, by *ibid.*, by the following:

"(iii) arises under an agreement between that State and the Dominion or a Province, being an agreement which expressly provides that the said jurisdiction shall extend to such a dispute, and in the case of an agreement with a Province, has been made with the approval of the Governor-General;"

Appellate jurisdiction of Federal Court in appeals from High Courts in British India.

[4]205. (1) An appeal shall lie to the Ftderal Court from any judgment, decree or final order of a High Court [4a][in British India], if the High Court certifies that the case involves a substantial question of law as to interpretation of this Act or any Order in Council made thereunder[3a], and it shall be the duty of every High Court in British India to consider in every case whether or not any such question is involved and of its own motion to give or to withhold a certificate accordingly.

(2) Where such a certificate is given, any party in the case may appeal to the Federal Court on the ground that any such question as aforesaid has been wrongly decided, and on any ground on which that party could have appealed without special leave to His Majesty in Council if no such certificate had been given, and, with the leave of the Federal Court, on any other ground, and no direct appeal shall lie to His Majesty in Council, either with or without special leave.

Power of Federal Legislature to enlarge appellate jurisdiction.

206. (1) The Federal Legislature may by Act provide that in such civil cases as may be specified in the Act an appeal shall lie to the Federal Court from a judgment, decree or final order of a High Court [4a][in British India] without any such certificate as aforesaid, [4a][but no appeal shall lie under any such Act unless—

(*a*) the amount or value of the subject matter of the dispute in the court of first instance and still in dispute on appeal was and is not less than fifty thousand rupees or such other sum not less than fifteen thousand rupees as may be specified by the Act, or the judgment, decree or final order involves directly or indirectly some claim or question respecting property of the like amount or value: or

(*b*) the Federal Court gives special leave to appeal.]

(2) If the Federal Legislature makes such provision as is mentioned in the last preceding sub-section, consequential provision may also be made by Act of the Federal Legislature for the abolition in whole or in part of direct appeals in civil cases from High Courts [4a][in British India] to His Majesty in Council, either with or without special leave.

(3) A Bill or amendment for any of the purposes specified in this section shall not be introduced into, or moved in, [4a][either Chamber of] the Fededal Legislature without the previous sanction of the Governor-General [4a][in his discretion].

Appellate jurisdiction of Federal Court in appeals from High Courts in Federated States.

207. (1) An appeal shall lie to the Federal Court from a High Court in a Federated State on the ground that a question of law has been wrongly decided, being a question which concerns the interpretation of this Act or of an Order in Council made thereunder [4b][or] the extent of the legislative or executive authority vested in the Federation by virtue of the Instrument of Accession of that State, or arises under an agreement made under Part VI of this Act in relation to the administration in that State of a law of the Federal Legislature.

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4. This section came into force on 1-4-1937 under the Government of India (Federal Court) Order 1936, para 3, proviso [18-12-1936].

4a. Omitted, by *ibid.*

4b. Substituted, by *ibid.*, by the words—

"before the date of the establishment of the Dominion or an order made thereunder on or after hat date, or concerns the interpretation of the Indian Independence Act, 1947, or of an order made thereunder or concerns".

(2) An appeal under this section shall be by way of special case to be stated for the opinion of the Federal Court by the High Court, and the Federal Court may require a case to bt so stated, and may return any case so stated in order that further facts may be stated therein.

Appeals to His Majesty in Council.

208. An appeal may be brought to His Majesty in Council from a decision of the Federal Court—

(*a*) from any judgment of the Federal Court given in the exercise of its original jurisdiction in any dispute which concerns the interpretion of this Act or of an Order in Council made thereunder, [4b][or] the extent of the legislative or executive authority vested in the Federation by virtue of the Instrument of Accession of any State, or arises under an agreement made under Part VI of this Act in relation to the administration in any State of a law of the Federal Legislature, without leave; and

(*b*) in any other case, by leave of the Federal Court or of His Majesty in Council.

Form of judgment on appeal.

209. (*1*) The Federal Court shall, where it allows an appeal, remit the case to the court from which the appeal was brought with a declaration as the judgment, decree or order which is to be substituted for the judgment, decree or ordered appealed against, and the court from which the appeal was brought shall give effect to the decision of the Federal Court.

(*2*) Where the Federal Court upon any appeal makes any order as to the costs of the proceedings in the Federal Court, it shall, as soon as the amount of the costs to be paid is ascertained, transmit its order for the payment of that sum to the court from which the appeal was brought and that court shall give effect to the order.

(*3*) The Federal Court may, subject to such terms or conditions as it may think fit to impose, order a stay of execution in any case under appeal to the Court, pending the hearing of the appeal, and execution shall be stayed accordingly.

Enforcement of decrees and orders of Federal Court and orders as to discovery, etc.

210. (*1*) All authorities, civil and judicial, throughout the Federation, shall, act in aid of the Federal Court.

(*2*) The Federal Court shall, as respects [4c][British India and the Federal States], have power to make any order for the purpose of securing the attendance of any person, the discovery or production of any documents or the investigation or punishment of any contempt of court, which any High Court [4c][in British India] has power to make as respects the territory within its jurisdiction, and any such orders, and any orders of the Federal Court as to the costs of and incidental to any such orders, and any orders of the Federal Court as to the costs of and incidental to any proceedings therein, shall be enforceable by all courts and authorities in every part of [4d][British India or of any Federated] State as if they were orders duly made by the highest court exercising civil or criminal jurisdiction, as the case may be, in that part.

4c. Omitted by *ibid.*

4d. Substituted, by *ibid.*, by the words—

"a Governor's Province, Chief Commissioner's Province or of any Acceding"

(*3*) Nothing in this section—

(*a*) shall apply to any such order with respect to costs as is mentioned in sub-section (2) of the last preceding section; or

(*b*) shall, as regards a Federated State, apply in relation to any jurisdiction exercisable by the Federal Court by reason only of the making by the Federal Legislature of such provision as is mentioned in this chapter for enlarging the appellate jurisdiction of the Federal Court.

Letters of request to Federated States.

211. Where in any case the Federal Court require a special case to be stated or re-stated by, or remit a case to, or order a stay of execution in a case from, a High Court in a Federal State, or require the aid of the civil or judicial authorities in a Federal State the Federal Court shall cause letters of request in that behalf to be sent to the Ruler of the State, and the Ruler shall cause such communication to be made to the High Court or to any judicial or civil authority as the circumstances may require.

Law declared by Federal Court and Privy Council to be binding on courts.

212. The law decided by Federal Court and by any judgment of the Privy Council shall, so far as applicable, be recognised as binding on and shall be followed by all courts in [4e][British India], and, so far as respects the application and interpretation of this Act or any Order in Council [4f][thereunder] or any matter with respect to which the Federal Legislature has power to make laws in relation to the State, in any Federated State.

Power of Governor-General to consult Federal Courts.

213. (*1*) If at any time it appears to the Governor-General that a question of law has arisen, or is likely to arise, which is of such a nature and of such public importance that it is expendient to obtain the opinion of the Federal Court upon it, he may [4c][in his discretion] refer the question to that court for consideration, and the court may, after such hearing as they think fit, report to the Governor-General thereon.

(*2*) No report shall be made under this section save in accordance with an opinion delivered in open court with the concurrence of a majority of the judges present at the hearing to the case, but nothing in this sub-section shall be deemed to prevent a judge who does not concur from delivering a dissenting opinion.

Rules of court, etc.

214. (*1*) The Federal Court may from time to time, with the approval of the Governor-General in his discretion, make rules[5] of court for regulating generally the practice and procedure of the court, including rules as to the persons practising before the court, as to the time within which appeals to the court, are to be entered, as to the costs of and incidental to any proceedings in the court, and as to the fees to be charged in respect of proceedings therein, and in particular may make rules providing for the summary determination of any

4e. Substituted, in *ibid.*, by the words—
"any Governor's Province or Chief Commissioner's Province".

4f. Substituted, by *ibid.*, by the words—
"or order thereunder, or of the Indian Independence Act, 1947, or of any order thereunder".

5. *See* the Federal Court Rules, 1942, published in the Gazette of India, 1942, Part I, page 1228.

appeal which appears to the Court to be frivolous or vexatious or brought for the purpose of delay.

(*2*) Rules made under this section may fix the minimum number of Judges who are to sit for any purposes, so however that no case shall be decided by less than three Judges:

Provided that, if the Federal Legislature makes such provision as is mentioned in this chapter for enlarging the appellate jurisdiction of the court, the rules shall provide for the constitution of a special division of the court for the purpose of deciding all cases which would have been within the jurisdidtion of the court even if its jurisdiction had not been so enlarged.

(*3*) Subject to the provisions of any rules of court, the Chief Justice of India shall determine what Judges are to constitute any division of the court and what Judges are to sit for any purpose.

(*4*) No judgment shall be delivered by the Federal Court save in open court and with the concurrence of a majority of the judges present at the hearing of the case, but nothing in this sub-section shall be deemed to prevent a Judge who does not concur from delivering a dissenting judgment.

(*5*) All proceedings in the Federal Court shall be in the English language.

Ancillary powers of Federal Court.

[6]**215.** The Federal Legislature may make provision by Act for conferring upon the Federal Court such supplemental powers not inconsistent with any of the provisions this Act as may appear to be necessary or desirable for the purpose of enabling the court more effectively to exercise the jurisdiction conferred upon it by or under this Act.

Expenses of Federal Court.

216. (*1*) The administrative expenses of the Federal Court, including all salaries, allowances and pensions payable to or in respect of the officers and servants of the court, shall be charged upon the revenues of the Federation, and any fees or other moneys taken by the court shall form part of those revenues.

[7][(*2*) The Governor-General shall exercise his individual judgment as to the amount to be included in respect of the administrative expenses of the Federal Court in any estimates of expenditure laid by him before the chambers of the Federal Legislature.]

Construction of references to High Courts in States.

217. References in any provision of this Part of this Act to a High Court in a Federated State shall be construed as reference to any court which [8][His Majesty] may, after communication with the Ruler of the State, declare to be a High Court for the purposes of that provision.

Savings.

218. Nothing in this chapter shall be construed as conferring, or empowering the Federal Legislature to confer, any right of appeal to the Federal Court in any case in which a High Court [7][British India] is exercising jurisdiction on appeal from

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6. This section came into force on 29-7-1937, under Government of India (Federal Court) Order, 1937, para 3.
7. Omitted, by *ibid.*
8. Substituted, by *ibid.*, by the word—
"Governor-General".

a court outside [8][British] India, or as affecting any right of appeal in any such case to His Majesty in Council with or without leave.

CHAPTER II[1]

THE HIGH COURTS IN [1a][BRITISH] INDIA.

Meaning of 'High Court".

219. (*1*) The following courts shall in relation to British India be deemed to be High Courts for the purposes of this Act, that is to say, the High Courts in Calcutta, Madras, Bombay, Allahabad, [1b][Lahore and Patna, the Chief Court in Oudh, the Judicial Commissioner's Courts in the Central Provinces and Berar, in the North-West Frontier Province and in Sind], any other court in British India constituted or reconstituted under the chapter as a High Court, and any other comparable court in British India which [1c][His Majesty in Council] may declare to be a High Court for the purposes of this Act:

[2][Provided that, if provision [2a](has been made, whether befroe or after the commencement of Part III of this Act—

(*a*) by His Majesty by Letters Patent for the establishment of a High Court to replace any Court or Courts mentioned in this sub-section; or

(*b*) by the appropriate Legislature in India for the establishment of a Chief Court to replace the Judicial Commissioner's Court in the North-West Frontier Province, or the Judicial Commissioner's Court in Sind,

then, as from) the establishment of the new court, this section shall have effect as if the new court were mentioned therein in lieu of the court or courts so replaced.]

(*2*) The provisions of this chapter shall apply to every High Court in British India.[2b]

Constitution of High Courts.

220. (*1*) Every High Court shall be a court of record and shall consist of a chief justice and such other judges as [2c][His Majesty] may from time to time deem it necessary to appoint:

Provided that the judges so appointed together with any additional judges appointed by the Governor-General in accordance with the following provi-

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1. This Chapter came into force on 1-4-1937 under Government of India (Commencement and Transitory Provisions) Order, 1936, para 3.

1a. Imitted, by *ibid.*

1b Substituted, by *ibid.*, by the following—
"Patna and Nagpur, the High Court of East Punjab, the Chief Court in Oudh".

1c. Substituted, by *ibid.*, by the words—
"an Act of the appropriate Legislature".

2. *Substituted* by the India and Burma (Miscellaneous Amendments) Act, 1940 (3 and 4 Geo. 6, Ch. 5), S. 6.

2a. Subrtituted, by *ibid.*, by the words—
"is made by His Majesty by Letters Patent for the establishment of a High Court to replace any court or courts mentioned in this sub-section, then, as from".

2b. Sub-sec. (3) was added, by *ibid.*, as follows—
"In this Chapter, 'India' means the territories comprised in the Governors' Provinces and Chief Commissioners' Provincees, and does not include any Acceding State".

2c. Substituted, by *ibid.*, by the words "Governor-General".

sions of this chapter shall at no time exceed in number such maximum number as [2d][His Majesty in Council may] fix in relation to that court.[3]

(*2*) Every judge of a High Court shall be appointed by [2c][His Majesty by warrant under the Royal Sign Manual] and shall hold office until he attains the age of sixty years:

Provided that—

(*a*) a judge may, by resignation under his hand addressed to the Governor resign his office:

(*b*) a judge may be removed from his office by [2c][His Majesty by warrant under the Royal Sign Manual] on the ground of misbehaviour or of infirmity of mind or body if the Judicial Committee of the Privy Council, on reference being made to them [3d][by His Majesty], report that the judge ought on any such ground to be removed.

[4][(*c*) the office of a judge shall be vacated by his being appointed [3a]by His Majesty] to be a judge of the Federal Court or of another High Court.]

(*3*) A person shall not be qualified for appointment as a judge of a High Court unless he—

(*a*) is a barrister of England or Northern Ireland, of at least ten years standing, or a member of the Faculty of Advocates in Scotland of at least ten years standing, or

(*b*) is a member of the Indian Civil Service of at least ten years standing, who was for at least three years served as, or exercised the powers of, a district Judge; or

(*c*) has for at least five years held a judicial office in British India not inferior to that of a subordinate judge, or judge of a small cause court: or

(*d*) has for at least ten years been a pleader or of any High Court, or of two or more such Courts in succession:

[3a][Provided that a person shall not, unless he is, or when first appointed to Judicial office was, a barrister, a member of the Faculty of Advocates or a pleader, be qualified for appointment as Chief Justice of any High Court constituted by letters patent until he has served for not less than three years as a Judge of a High Court.

In computing for the purposes of this sub-section the standing of a barrister or a member of the Faculty of Advocates, or the period during which a person has been a pleader, any period during which the person has held judicial office after he became a barrister, a member of the Faculty of Advocates, or a pleader, as the case may be, shall be included.][4a]

(*4*) Every person appointed to be a judge of a High Court shall, before he enters upon his office, make and subscribe before the Governor or some person appointed by him an oath according to the form set out in that behalf in the Fourth Schedule to ths Act.

2d. Substituteed, by *ibid.*, by the words—'the Governor-General may by order fix".

3. *See* the Government of India (High Court Judges) Order, 1937 [18-3-1937].

3a. Omitted, by *ibid.*

4. *Added* and *deemed* to have been so added immediately before the passing of the Act by the India (Miscellaneous Provisions) Act, 1944 (7 & 8 Geo. 6, Ch. 38), Ss. 2 and 6(1).

4a. Inserted, by *ibid.*, after this—

"and in computing the period during which a person has served as a judge of a High Court, or been a pleader of a High Court, or held judicial office in India, any period before the establishment of the Dominion during which the person has served as a judge or been a pleader of a High Court in British India or has held judicial office in India, as the case may be, shall be included".

Salaries, etc., of Judges.

221. The judges of the several High Courts shall be entitled to such salaries and allowances, including allowances for expenses in respect of equipment and travelling upon appointment, and to such rights in respect of leave and pensions, as may from time to time be fixed by [4b][His Majesty in Council][5]:

Provided that neither the salary of a judge, nor his rights in respect of leave of absence or pension, shall be varied to his disadvantage after his appointment.

Temporary and additional judges.

222. (*1*) If the office of chief justice of a High Court becomes vacant, or if any such chief justice is by reason of absence, or for any other reason, unable to perform the duties of his office, those duties shall, until some person [5a][appointed by His Majesty] to the vacant office has entered on the duties thereof, or until the chief justice has resumed his duties, as the case may be, be performed by such one of the other judges of the Court as the Governor-General may [3a][in his discretion] think fit to appoint [5b][for the purpose].

(*2*) If the office of any other judge of a High Court becomes vacant, or if any such judge is appointed to act temporarily as a chief justice, or is by reason of absence, or for any other reason, unable to perform the duties of his office, the Governor-General may [3a][in his discretion] appoint a person duly qualified for appointment as a judge to act as a judge of that Court, and the person so appointed shall, unless the Governor-General [3a][in his discretion] thinks fit to revoke his appointment, be deemed to be a judge of that Court until some person [5a][appointed by His Majesty] to the vacant office has entered on the duties thereof, until the permanent judge has resumed his duties.

(*3*) If by reason of any temporary increase in the business of any High Court or by reason of arrears of work in any such Court it appears to the Governor-General that the number of the judges of the Court should be for the time being increased, the Governor-General [3a][in his discretion] may, subject to the foregoing provisions of this chapter with respect to the maximum number of judges, appoint persons duly qualified for appointment as judges to the additional judges of the Court for such period not exceeding two years as he may specify.

Jurisdiction of existing High Courts.

223. Subject to the provisions of this Part of this Act, to the provisions of any Order in Council made under this or any other Act and to the provisions of any Act of the appropriate Legislature enacted by virtue of powers conferred on that Legislature by this Act, the jurisdiction of and the law administered in, any existing High Court, and the respective powers of the judges thereof in relation to the administration of justice in the court, including any power to make rules of Court and to regulate the sittings of the Court and of members thereof sitting alone or in division courts, shall be the same as immediately before the commencement of Part III of this Act.

Administrative functions of High Courts.

224. (*1*) Every High Court shall have superintendence over all courts in India for the time being subject to its appellate jurisdiction, and may do any of the following things, that is to say,—

(*a*) call for returns;

4b. Substituted by *ibid.*, by the words—'order of the Governor-General'.
5. *See* the Government of India (High Court Judges) Order, 1937 [18-3-1937].
5a. Substituted, by the India (Provisional Constitution) Order, 1947, by the words 'permanently appointed'.
5b. Substituted, by *ibid.*, by the words "as acting chief justice".

(*b*) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts;

(*c*) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts; and

(*d*) settle tables of fees to be allowed to the sheriff, attorneys, and all clerks and officers of courts:

Provided that such rules, forms and tables shall not be inconsistent with the provision of any law for the time being in force, and shall require the previous approval of the Governor.

(*2*) Nothing in this section shall be construed as giving to a High Court any jurisdiction to question any judgment of any inferior court which is not otherwise subject to appeal or revision.

Transfer of certain cases to High Court for trial.

225. (*1*) If on an application made in accordance with the provisions of this section a High Court is satisfied that a case pending in an inferior court, being a case which the High Court has power to transfer to itself for trial, involves or is likely to involve the question of the validity of any Federal or Provincial Act, it shall exercise that power.

(*2*) An application for the purposes of this section shall not be made, except in relation to a Federal Act, by the Advocate-General, for the Federation and, in relation to a Provincial Act, by the Advocate-General for the Federation or the Advocate-General for the Province.

Jurisdiction in revenue matters.

226. (*1*) Until otherwise provided by Act of the appropriate legislature, no High Court shall have any orginal jurisdiction in any matter concerning the revenue, or concerning any act ordered or done in the collection thereof according to the usage and practice of the country or the law for the time being in force.

(*2*) A Bill or amendment for making such provision as aforesaid shall not be introduced into or moved in a Chamber of the Federal or a Provincial Legislature without the previous sanction of the Governor-General in his discretion or, as the case may be, of the Governor in his discretion.

Proceedings of High Courts to be in English.

227. All proceedings in every High Court shall be in the English language.

Expenses of High Courts.

228. (*1*) The administrative expenses of a High Court, including all salaries, allowances and pensions payable to or in respect of the officers and servants of the Court and the salaries and allowances of the judges of the Court shall be charged upon the revenue of the Province, and any fees or other moneys taken by the Court shall form part of those revenues.

[4][(*2*) The Governor shall exercise his individual judgment as to the amount to be included in respect of such expenses as aforesaid in any estimates of expenditure laid by him before the Legislature].

Power of His Majesty to constitute or reconstitute High Court by letters patent.

229. (*1*) His Majesty, if the Chamber or Chambers of the Legislature of any Province present an address in that behalf to the Governor of the Province for submission to His Majesty, may by letters patent constitute a High Court for that Province or any part thereof or

4. Omitted by the India (Provisional Constitution) Order, 1947.

reconstitute in like manner any existing High Court for that Province or for any part thereof, or, where there are two High Courts in that Province, amalgamate those courts.

(*2*) Where any Court is reconstituted, or two Courts are amalgamated, as aforesaid, the letters patent shall provide for the continuance in their respective offices of the existing judges, officers and servants of the Court or Courts, and for the carrying on before the reconstituted Court or the new Court of all pending matters, and may contain such other provisions as may appear to His Majesty to be necessary by reason of the reconstitution or amalgamation.

Extra provincial jurisdiction of High Courts.

230. (*1*) [5][His Majesty in Council] may, if satisfied that an agreement in that behalf has been made between the Governments concerned, [6]extend the jurisdiction of a High Court in any Province to any area in [4][British] India not forming part of that Province, and the High Court shall thereupon have the same jurisdiction in relation to that area as it has in relation to any other in relation to which it exercises jurisdiction.

(*2*) Nothing in this section affects the provisions of any law or letters patent in force immediately before the commencement of Part III of this Act empowering any High Court to exercise jurisdiction in relation to more than one Province or in relation to a Province and an area not forming part of any Province.

(*3*) Where a High Court exercises jurisdiction in relation to any area or areas outside the Province in which it has its principal seat, nothing in this Act shall be construed—

(*a*) as empowering the Legislature of the Province in which the Court has its principal seat to increase, restrict or abolish that jurisdiction; or

(*b*) as preventing the Legislature having power to make laws in that behalf for any such area from passing such laws with respect to the jurisdiction of the Court in relation to that area as it would be competent to pass if the principal seat of the Court were in that area.

Saving and definitions.

231. (*1*) Any judge appointed before the commencement of Part III of this Act to any High Court shall continue in office and shall be deemed to have been appointed under this Part of this Act, but shall not by virtue of this Act be required to relinquish his office at any earlier age than he would have been required so to do, if this Act had not been passed.

(*2*) Where a High Court exercises jurisdiction in relation to more than one Province or in relation to a Province and an area not forming part of a Province, reference in this chapter to the Governor in relation to the judges [4][and expenses] of a High Court and references to the revenues of the Province shall be construed as references to the Governor and the revenues of the Province in which the Court has its principal seat, and the reference to the approval by the Governor of rules, forms and tables for subordinate courts shall be construed as a reference to the approval thereof by the Governor of the Province in which the subordinate court is situate, or, if it is situate in an area not forming part of a Province, by the Governor-General.

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5 Substituted, by *ibid.*, by the word 'Governor-General'.
6. The words 'by order' inserted, by *ibid.*

PART X[1]

THE SERVICES OF THE CROWN IN INDIA.

CHAPTER I.

DEFENCE SERVICES.

Pay, etc., of Commander-in-Chief.

232.[2] The pay and allowances of the Commander-in-Chief of His Majesty's Forces in India and the other conditions of his service shall be such as His Majesty in Council may direct.

Control of His Majesty as to Defence appointments.

233.[3] (*1*) His Majesty in Council may require that appointments to such offices connected with defence as he may specify shall be made by him or in such manner as he may direct.[3]

(*2*) Nothing in this section derogates from any power vested in His Majesty by virtue of any Act or by virtue of his Royal Prerogative.

Eligibility for commissions in Indian Forces.

[3]**234.** The power of His Majesty, and of any person authorised in that behalf by His Majesty, to grant commissions in any naval, military or air force raised in India extends to the granting of a commission in any such force to any person who might be, or has been, lawfully enlisted or enrolled in that force.

Control of Secretary of State with respect to conditions of service.

[3]**235.** Without prejudice to the generality of the powers conferred on him by this Act, the Secretary of State may, acting with the concurrence of his advisers, from time to time specify what rules, regulations and orders affecting the conditions of service of all or any of His Majesty's Forces in India shall be made only with his previous approval.

Saving of rights of appeal.

[3]**236.** Nothing in this Act affects any right of appeal which members of His Majesty's Forces in India enjoyed immediately before the passing of this Act, and the Secretary of State may entertain any such memorial from a member of those Forces as the Secretary of State, or the Secretary of State in Council, might previously have entertained.

Pay, etc., of members of forces to be charged on Federal revenues.

[3]**237.** Any sums payable out of the revenues of the Federation in respect of pay, allowances, pensions or other sums payable to, or in respect of, persons who are serving, or have served, in His Majesty's forces shall be charged on those revenues, but nothing herein contained shall be construed as limiting the interpretation of the general provisions of this Act charging on the said revenues expenditure with respect to defence.

Provisions as to certain civilian personnel.

[3]**238.** The provisions of the three last preceding sections shall apply in relation to persons who, not being members of His Majesty's forces hold, or have held, posts in India connected with the equipment or administra-

1. This Part, except S 232 *came into force* on 1-4-1937 under Government of India (Commencement and Transitory Provisions) Order, 1936, para 3.
2. This section *shall not come into force* until the establishment of the Federation, *see ibid.*
3. Later, omitted by the India (Provisional Constitution) Order, 1947.

tion of those forces or otherwise connected with defence, as they apply in relation to persons who are, or have been, members of those forces.

King's India cadetships.

[2]239. In the appointment of officers to His Majesty's army the same provision as heretofore, or equal provision, shall be made for the appointment of sons of persons who have served in India in the military or civil service of the Crown.

In this section the reference to persons who have served in India in the military or civil service of the Crown includes persons who have so served in Burma or in Aden before their respective separations from India.

CHAPTER II.

CIVIL SERVICES—GENERAL PROVISIONS.

Tenure of office of persons employed in civil capacities in India.

240. (*1*) Except as expressly provided by this Act, every person who is a member of a civil service of the Crown in India, or holds any civil post under the Crown in India, holds office during His Majesty's pleasure.

(*2*) No such person as aforesaid shall be dismissed from the service of His Majesty by any authority subordinate to that by which he was appointed.

(*3*) No such person as aforesaid[1] shall be dismissed or reduced in rank until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him:

Provided that this sub-section shall not apply—

(*a*) where a person is dismissed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or

(*b*) where an authority empowered to dismiss a person or reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to give to that person an opportunity of showing cause.

(*4*) Notwithstanding that a person holding a civil post under the Crown in India holds office during His Majesty's pleasure, any contract under which a person, not being a member of a civil service of the Crown in India, is appointed under this Act to hold such a post may, if the Governor-General, or, as the case may be, the Governor, deems it necessary in order to secure the services of a person having special qualifications, provide for the payment to him of compensation, if before the expiration of an agreed period that post is abolished or he is, for reasons not connected with any misconduct on his part, required to vacate that post.

Recruitment and conditions of service.

241. (*1*) Except as expressly provided by this Act, appointments to the civil services of, and civil posts under the Crown in India, shall, [2][after the commencement of Part III of this Act], be made—

(*a*) in the case of services of the Federation, and posts in connection

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1. Inserted by the India (Provisional Constitution) Order, 1947, the following—
"who having been appointed by the Secretary of State or the Secretary of State in Council continues after the establishment of the Dominion to serve under the Crown in India shall be dismissed from the service of His Majesty by any authority subordinate to the Governor-General or the Governor according as that person is serving in connection with the affairs of the Dominion or of a Province, and no other such person as aforesaid."

2. Omitted, by *ibid.*

with the affairs of the Federation, by the Governor-General or such person as he may direct;

(*b*) in the case of services of a Province, and posts in connection with the affairs of a Province, by the Governor or such person as he may direct.

(*2*) Except as expressly provided by this Act, the conditions of service of persons serving His Majesty in a civil capacity [2][in India] shall, subject to the provisions of this section, be such as may be prescribed—

(*a*) in the case of persons serving in connection with the affairs of the Federation, by rules made by the Governor-General or by some person or persons authorised by the Governor-General to make rules for the purpose;

(*b*) in the case of persons serving in connection with the affairs of a Province, by rules made by the Governor of the Province or by some person or persons authorised by the Governor to make rules for the purpose:

Povided that it shall not be necessary to make rules regulating the conditions of service of persons employed temporarily on the terms that their employment may be terminated on one month's notice or less, and nothing in this sub-section shall be construed as requiring the rules regulating the conditions of service of any class of persons to extend to any matter which appears to the rule-making authority to be a matter not suitable for regulation by rule in the case of that class.

(*3*) The said rules shall be so framed as to secure—

(*a*) that, in the case of a person who before the commencement of Part III of this Act, was serving His Majesty, in a civil capacity [2][in India], no order which alters or interprets to his disadvantage any rule by which his conditions of service are regulated shall be made except by an authority which would have been competent to make such an order on the eighth day of March, nineteen hundred and twenty-six, or by [3][some person empowered by the Secretary of State to give directions in that respect];

(*b*) that every such person as aforesaid shall have the same rights of appeal to the same authorities from any order which—

(*i*) punishes or formally censures him; or

(*ii*) alters or interprets to his disadvantage any rule by which his conditions of service are regulated; or

(*iii*) terminates his appointment otherwise than upon his reaching the age fixed for super-annuation,

as he would have had immediately before the commencement of Part III of this Act, or such similar rights of appeal to such corresponding authorities as may be directed by [3][the Secretary of State or by some person empowered by the Secretary of State to give directions in that respect];

(*c*) that every other person serving His Majesty in a civil capacity [2][in India] shall have at least one appeal against any such order as aforesaid, not being an order of the Governor-General or a Governor.

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3. Substituted, by *ibid.*, the words—
"the Governor-General or the Governor as the case may be".

(*4*) Notwithstanding anything in this section, but subject to any other provision of this Act, Acts of the appropriate Legislature in India may regulate the conditions of service of persons serving His Majesty in a civil capacity in India and any rules made under this section shall have effect subject to the provisions of any such Act.

Provided that nothing in any such Act shall have effect so as to deprive any person of any rights required to be given to him by the provisions of the last preceding sub-section.

(*5*) No rules made under this section and no Act of any Legislature [2][in India] shall be construed to limit or abridge the power of the Governor-General or a Governor to deal with the case of any person serving His Majesty in a civil capacity [2][in India] in such manner as may appear to him to be just and equitable:

Provided that, where any such rule or Act is applicable to the case of any person, the case shall not be dealt with in any manner less favourable to him than that provided by that rule or Act.

Application of preceding section to railway, customs, postal and telegraph services and officials of courts.

242. [2][(*1*) In its application to appointments to, and to persons serving in, the railway services of the Federation, the last preceding section shall have effect as if for any reference to the Governor-General in paragraph (*a*) of sub-section (1), in paragraph (*a*) of sub-section (2) and in sub-section (5) there were substituted a reference to ahe Federal Railway Authority].

[2][(*2*) In framing rules for the regulation of recruitment to superior railway posts, the Federal Railway Authority shall consult the Federal Public Service Commission, and in recruitment to such posts and in recruitment generally for railway purposes shall have due regard to the past association of the Anglo-Indian community with railway services in India, and particularly to the specific class, character and numerical percentages of the posts hitherto held by members of that community and the remuneration attaching to such posts, and shall give effect to any instructions which may be issued by the Governor-General for the purpose of securing, so far as practicable to each community in India a fair representation in the railway services of the Federation, but, save as aforesaid, it shall not be obligatory on the Authority to consult with, or otherwise avail themselves of the services of the Federal Public Service Commission].

(*3*) In framing the rules for the regulation of recruitment to posts in the[4] customs, postal and telegraph services, the Governor-General or person authorised by him in that behalf shall have due regard to the post association of the Anglo-Indian community with the said services, and particularly to the specific class, character and numerical percentages of the posts previously held in the said services by members of the said community and to the remuneration attaching to such posts.

(*4*) In its application to appointments to, and to persons serving on, the staff attached to the Federal Court or the staff attached to a High Court, the said section shall have effect as if, in the case of the Federal Court, for any reference to the Governor-General in paragraph (*a*) of sub-section (1), in paragraph (*a*) of sub-section (2) and in sub-section (5) there were substituted a reference to the Chief Justice of India and as if, in the case of a High Court, for any reference to the Governor in paragraph (*b*) of

4. Inserted, by *ibid.*, the word 'railway'.

section (1), in paragraph (*a*) of sub-section (2) and in sub-section (5) there was substituted a reference to the Chief Justice of the Court.

Provided that—

(*a*) in the case of the Federal Court, the Governor-General and, in the case of a High Court, the Governor may in his discretion require that in such cases as he may in his discretion direct no person not already attached to the Court shall be appointed to any office connected with the Court save after consultation with the Federal Public Service Commission, or the Provincial Public Service Commission, as the case may be;

(*b*) rules made under the said sub-section (2) by a Chief Justice shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the Governor-General or, as the case may be, the Governor.

Special provisions as to police.

243. Notwithstanding anything in the foregoing provisions of this chapter, the conditions of service of the subordinate ranks of the various police forces in Indian shall be such as may be determined by or under the Acts relating to those forces respectively.

Recruitment by Secretary of State and provisions as to certain posts.

Services recruited by Secretary of State.

[2][**244.** (1) As from the commencement of Part III of this Act appointments to the civil services known as the Indian Civil Service, the Indian Medical Service (Civil), and the Indian Police Service (which last mentioned service shall thereafter be known as "the Indian Police") shall, until Parliament otherwise determines, be made by the Secretary of State.

(2) Until Parliament otherwise determines, the Secretary of State may also make appointments to any service or services which at any time after the said date he may deem it necessary to establish for the purpose of securing the recruitment of suitable persons to fill civil posts in connection with the discharge of any functions of the Governor-General which the Governor-General is by or under this Act required to exercise in his discretion.

(3) The respective strengths of the said services shall be such as the Secretary of State may from time to time prescribe, and the Secretary of State shall in each year cause to be laid before each House of Parliament a statement of the appointments made thereto and the vacancies therein.

(4) It shall be the duty of the Governor-General to keep the Secretary of State informed as to the operation of this section, and he may after the expiration of such period as he thinks fit make recommendations for the modification thereof.

In discharging his functions under this sub-section, the Governor-General shall act in his discretion].

Special provision as to irrigation.

[2][**245.** Until Parliament otherwise determines, the Secretary of State may for the purpose of securing efficiency in irrigation in any Province, appoint persons to any civil service of, or civil post under, the Crown in India concerned with irrigation].

Reserved posts.

[2][**246.** (1) The Secretary of State shall make rules specifying the number and character of the civil posts under the Crown (other than posts in connection with any

functions of the Governor-General which the Governor-General is by or under this Act required to exercise in his discretion), which, subject to the provisions of this sub-section, are to be filled by persons appointed by the Secretary of State to a civil service of, or a civil post under, the Crown in India, and except under such conditions as may be prescribed in the rules no such post shall, without the previous sanction of the Secretary of State—

(*a*) be kept vacant for more than three months; or

(*b*) be filled otherwise than by the appointment of such a person as aforesaid; or

(*c*) be held jointly with any other such post.

(*2*) Appointments and postings to the said posts (hereinafter in this Part of this Act referred to as "reserved posts") shall—

(*a*) in the case of posts in connection with the affairs of the Federation, be made by the Governor-General, exercising his individual judgment;

(*b*) in the case of posts in connection with the affairs of a Province, be made by the Governor of the Province, exercising his individual judgment.

(*3*) All rules made under this section shall, so soon as may be after they are made, be laid before each House of Parliament and, if either House of Parliament within the next subsequent twenty-eight days on which that House has sat after any such rule has been laid before it resolves that the rule shall be annulled, the rule shall thenceforth be void but without prejudice to the validity of anything previously done thereunder or to the making of a new rule].

Conditions of service, pensions, etc., of persons recruited by Secretary of State.

[5]**247.** (*1*) The conditions of service of all persons appointed to a civil service or a civil post by the Secretary of State shall—

(*a*) as respects pay, leave and pensions, and general rights in regard to medical attendance, be such as may be prescribed by rules to be made by the Secretary of State.

(*b*) as respects other matters with respect to which express provision is not made by this chapter, be such as may be prescribed by rules to be made by the Secretary of State in so far as he thinks fit to make such rules, and, in so far and so long as provision is not made by such rules, by rules to be made as respects persons serving in connection with the affairs of the Federation, by the Governor-General or some person or persons authorised by the Governor-General to make rules for the

5. Substituted, by the India (Provisional Constitution) Order, 1947, as follows—
"Conditions of service of persons originally recruited by Secretary of State.—The conditions of service of all persons who, having been appointed by the Secretary of State or the Secretary of State in Council to a civil service of the Crown in India, continue on and after the date of the establishment of the Dominion to serve under the Government of the Dominion or of any Province, shall—
(*a*) as respects persons serving in connection with the affairs of the Dominion, be such as may be prescribed by rules made by the Governor-General;
(*b*) as respects persons serving in connection with the affairs of a Province—
(*i*) in regard to their pay, leave, pensions, general rights as medical attendance and any other matter which immediately before the establishment of the Dominion was regulated by rules made by the Secretary of State, be such as may be prescribed by rules made by the Governor-General; and
(*ii*) in regard to any other matter, be such as may be prescribed by rules made by the Governor of the Province"

purpose and, as respects persons serving in connection with the affairs of a Province, by the Governor of the Province or some person or persons authorised by the Governor to make rules for the purpose:

Provided that no rule made under this sub-section shall have effect so as to give to any person appointed to a civil service or civil post by the Secretary of State less favourable terms as respects remuneration or pension than were given to him by the rules in force on the date on which he was first appointed to his service or was appointed to his post.

(*2*) Any promotion of any person appointed to a civil service or a civil post by the Secretary of State or any order relating to leave of not less than three months of any such person, or any order suspending any such person from office shall, if he is serving in connection with the affairs of the Federation, be made by the Governor-General exercising his individual judgment and, if he is saving in connection with the affairs of a Province, be made by the Governor exercising his individual judgment.

(*3*) If any such person as aforesaid is suspended from office, his remuneration shall not during the period of his suspension be reduced except to such extent, if any, as may be directed by the Governor-General exercising his individual judgment or, as the case may be, by the Governor exercising his individual judgment.

(*4*) The salary and allowances of any such person as aforesaid shall, if he is serving in connection with the affairs of the Federation, be charged on the revenues of the Federation and, if he is serving in connection with the affairs of a Province, be charged on the revenues of the Province:

Provided that, if any such person is serving in connection with the railways in India, so much only of his salary and allowances shall be charged on the revenues of the Federation as is not paid out of the Railway Fund.

(*5*) Pensions payable to or in respect of any such person as aforesaid, and government contributions in respect of any such person to any pension fund or provident fund, shall be charged on the revenues of the Federation.

(*6*) No award of a pension less than the maximum pension allowable under rules made under the section shall be made, except in each case with the consent of the Secretary of State.

(*7*) No rules made under this section shall be construed to limit or abridge the power of the Secretary of State of deal with the case of any person serving His Majesty in a civil capacity in India in such manner as may appear to him to be just and equitable, and no rules made under this section by any person other than the Secretary of State shall be construed to limit or abridge the power of the Governor General or, as the case may be, the Governor of a Province to deal with the case of any such person in such manner as may appear to him to be just and equitable:

Provided that, where any rule made under this section is applicable to the case of any person, the case shall not be dealt with in any manner less favourable to him than that provided by the rule.

Rights in respect of complaints, appeals, etc.

[6]**248.** '(*1*) If any person appointed to a civil service or a civil post by the Secretary of State is aggrieved by an order affecting his conditions of service and on due application to the person by whom the order was made does not receive the redress to which he considers himself entitled, he may,

6. Omitted, by *ibid.*

without prejudice to any other mode of obtaining redress, complain, if he is serving in connection with the affairs of the Federation, to the Governor-General and, if he is serving in connection with the affairs of a Province, to the Governor of the Province, and the Governor-General or Governor, as the case may be, shall examine into the complaint and cause such action to be taken thereon as appears to him exercising his individual judgment to be just and equitable.

(*2*) No order which punishes or formally censures any such person as aforesaid, or affects adversely his emoluments or rights in respect of pension, or decides adversely to him the subject-matter of any memorial, shall be made except, if he is serving in connection with the affairs of the Federation, by the Governor-General, exercising his individual judgment; or, if he is serving in connection with the affairs of a Province, by the Governor of that Province, exercising his individual judgment.

(*3*) Any person appointed to a civil service or a civil post by the Secretary of State may appeal to the Secretary of State against any order made by any authority in India which punishes or formally censures him, or alters or interprets to his disadvantage any rule by which his conditions of service are regulated.

(*4*) Any sums ordered to be paid out of the revenues of the Federation or a Province to or in respect of any such person as aforesaid on an appeal made under this section shall be charged on those revenues.

Compensation.

[6]**249.** (*1*) If by reason of anything done under this Act the conditions of service of any person appointed to a civil service or a civil post by the Secretary of State have been adversely affected, or if for any other reason it appears to the Secretary of State that compensation ought to be granted to, or in respect of, any such person, he or his representatives shall be entitled to receive from the revenues of the Federation, or if the Secretary of State so directs, from the revenues of a Province, such compensation as the Secretary of State may consider just and equitable.

(*2*) Any sum payable under this section from the revenues of the Federation or the revenues of a Province shall be charged on the revenues of the Federation or, as the case may be, that Province.

(*3*) For the avoidance of doubt it is hereby declared that the foregoing provisions of this section in no way prohibit expenditure by the Governor-General, or, as the case may be, the Governor, from the revenues of the Federation or a Province by way of compensation to persons who are serving or have served His Majesty in India in cases to which those provisions do not apply.

Provisions as to persons appointed by Secretary of State in Council, persons holding reserved posts and commissioned officers in civil employment.

Application of four last preceding sections to persons appointed by Secretary of State in Council, and certain other persons.

[6]**250.** (*1*) Subject to the provisions of this section, the provisions of the four last preceding sections and any rules made thereunder shall apply in relation to any person who was appointed before the commencement of Part III of this Act by the Secretary of State in Council to a civil service of, or a civil post under, the Crown in India as they apply in relation to persons appointed to a civil service or civil post by the Secretary of State.

(*2*) Subject to the provisions of this section, the said sections and

rules shall, in such cases and with such exceptions and modifications as the Secretary of State may decide, also apply in relation to any person who—

(*a*) not being a person appointed as aforesaid by the Secretary of State or the Secretary of State in Council, holds or has held a reserved post; or

(*b*) holds or has held any civil post under the Crown in India and is, or was when he was first appointed to such a post, an officer in His Majesty's forces.

(*3*) In relation to any person who was appointed before the commencement of Part III of this Act to a civil service of, or to a civil post under, the Crown in India, the provision contained in the sections aforesaid that no rule as to conditions of service shall have effect so as to give to any person less favourable terms as regards remuneration or pension than were given to him by the rules in force on the date on which he was first appointed to his service or was appointed to his post, shall be construed as a provision that no such rule shall have effect so as to give to any person less favourable terms as respects the said matters than were given to him by the rules in force immediately before the coming into operation of the rule.

(*4*) In its application, by virtue of this section, to persons serving in the railway services of the Federation, the second of the four last preceding sections (which relates to the conditions of service, pensions, etc., of persons recruited by the Secretary of State) shall have effect as if for any reference to the Governor-General in paragraph (*b*) of sub-section (1) thereof and in sub-sections (2), (3) and (7) thereof there were substituted a reference to the Federal Railway Authority.

(*5*) Any liability of the Federation or of any Province to or in respect of any person appointed before the commencement of Part III of this Act by the Secretary of State in Council to a civil service of, or a civil post under, the Crown in India, being a liability to pay a pension granted to or in respect of any such person or any other liability of such a nature as to have been enforceable in legal proceedings against the Secretary of State in Council if this Act had not been passed, shall, notwithstanding anything in this Act, be deemed, for the purposes of the provisions of Part VII of this Act, relating to legal proceedings, to be a liability arising under a statute passed before the commencement of Part III of this Act.

Special provisions as to staffs of the High Commissioner for India and the Auditor of Indian Home Accounts.

Staff of High Commissioner and Auditor of Indian Home Accounts.

[c]**251.** The provisions of this Part of this Act shall apply in relation to appointments to, and to persons serving on, the staffs of the High Commissioner for India and the Auditor of Indian Home Accounts as if the service of members of those staffs were service rendered in India:—

Provided that—

(*a*) appointments to the staff of the Auditor of Indian Home Accounts shall be made by him subject, as respects numbers, salaries and qualifications, to the approval of the Governor-General in his discretion; and

(*b*) in relation to that staff the functions of the Governor-General under this Part of this Act shall be exercised by him in his discretion.

Conditions of service of existing staff of High Commissioner and Auditor of India Home Accounts.

[6]**252.** (*1*) All persons who immediately before the commencement of Part III of this Act were members of the staff of the High Commissioner for India, or members of the staff of the Auditor of the accounts of the Secretary of State in Council, shall continue to be, or shall become, members of the staff of the High Commissioner for India or, as the case may be, of the Auditor of Indian Home Accounts.

(*2*) All such persons aforesaid shall hold their offices or posts subject to like conditions of service as to remuneration, pensions or otherwise, as therefore, or not less favourable conditions, and shall be entitled to reckon for purposes of pension any service which they would have been, entitled to reckon if this Act had not been passed.

(*3*) The salaries, allowances and pensions payable to, or in respect of, such of the persons aforesaid as were members of the staff of the Auditor of the accounts of the Secretary of State in Council shall be charged on the revenues of the Federation, and the salaries, allowances and pensions payable to, or in respect of, other such persons as aforesaid shall be so charged in so far as those salaries, allowances and pensions would, but for the passing of this Act, have been payable without being submitted to the vote of the Legislative Assembly of the Indian Legislature.

Special Provisions as to Judicial Officers.

Judges of the Federal Court and High Courts.

253. (*1*) The provisions of this chapter shall not apply to the judges of the Federal Court or of any High Court:

Provided that—

(*a*) for the purposes of this section a member of any of the civil services of the Crown in India who is acting temporarily as a judge of a High Court shall not be deemed to be a judge of that Court;

(*b*) nothing in this section shall be construed as preventing the [7][Orders in Council] relating to the salaries, leave and pensions of judges of the Federal Court, or of any High Court, from applying to such of those judges as were, before they were appointed judges, members of a civil service of the Crown in India, such of the rules relating to that service as may appear to [8][His Majesty] to be properly applicable in relation to them;

(*c*) nothing in this section shall be construed as excluding the office of judge of the Federal Court or of a High Court from the operation of the provisions of this chapter with respect to the eligibility for civil office of persons who are not British subjects.

(*2*) Any pension which under the rules in force immediately before the commencement of Part III of this Act was payable to or in respect of any person who, having been a judge of a High Court within the meaning of this Act[9] or of the High Court at Rangoon, retired before the commencement of the said Part III shall, notwithstanding anything in this Act or the Government of Burma Act, 1935 continue to be payable in accordance with those rules and shall be charged on the revenues of the Federation.

7 Substituted, by *ibid.*, by the words 'orders of the Governor-General'.
8. Substituted, by *ibid.*, by the words 'the Governor-General',
9. Inserted, by *ibid.*, 'as originally enacted'.

[10][(3) Any liability of the Federation or of any Province to or in respect of any person who is, at the commencement of Part III of this Act, a judge of a High Court within the meaning of this Act, or to or in respect of any such person as is mentioned in sub-section (2) of this section, being a liability to pay a pension granted to or in respect of any such person or any other liability of such a nature as to have been enforceable in legal proceedings against the Secretary of State in Council if this Act had not been passed, shall, notwithstanding anything in this Act or the Government of Burma Act, 1935, be deemed, for the purposes of the provisions of Part VII of this Act relating to legal proceedings, to be a liability arising under a statute passed before the commencement of Part III of this Act].

District judges, etc.

254. (1) Appointments of persons to be, and the posting and promotion of, district judges in any province shall be made by the Governor of the Province, exercising his individual judgment, and the High Court shall be consulted before a recommendation as to the making of any such appointment is submitted to the Governor.

(2) A person not already in the service of His Majesty shall only be eligible to be appointed a district judge if he has been for not less than five years a barrister, a member of the Faculty of Advocates in Scotland, or a pleader and is recommended by the High Court for appointment.

(3) In this and the next succeeding section the expression "district judge" includes additional district judge, joint district judge, assistant district judge, chief judge of a small cause court, chief presidency magistrate, sessions judge, additional sessions judge, and assistant sessions judge.

Subordinate civil judicial service.

255. (1) The Governor of each Province shall, after consultation with the Provincial Public Service Commission and with the High Court, make rules defining the standard of qualifications to be attained by persons desirous of entering the subordinate civil judicial service of a Province.

In this section, the expression subordinate civil judicial service means a service consisting exclusively of persons intended to fill civil judicial posts inferior to the post of district judge.

(2) The Provincial Public Service Commission for each Province, after holding such examinations, if any, as the Governor may think necessary, shall from time to time out of the candidates for appointment to the subordinate civil judicial service of the Province make a list of lists of the persons whom they consider fit for appointment to that service, and appointments is that service shall be made by the Governor from time to time be made by him as to the number of persons in the said service who are to belong to the different communities in the Province.

(3) The posting and promotion of, and the grant of leave to, persons belonging to the subordinate civil judicial service of a Province and holding any post inferior to the post of district judge, shall be in the hands of the High Court, but nothing in this section shall be construed as taking away from any such person the right of appeal required to be given to him by the foregoing provisions of this chapter, or as authorising the High Court to deal with any such person otherwise than in accordance with the conditions of his service prescribed thereunder.

10. Omitted, by *ibid.*

256. No recommendation shall be made for the grant of magisterial powers or of enhanced magisterial powers to, or the withdrawal of any magisterial powers from, any person save after consultation with the district magistrate of the district in which he is working, or with the Chief Presidency Magistrate, as the case may be.

Subordinate criminal magistracy.

Special Provisions as to Political Department.

[10]**257.** (*1*) Subject to the provisions of this section the provisions of this Part of this Act shall not apply in relation to persons wholly or mainly employed in connection with the exercise of the functions of the Crown in its relations with Indian States.

Officers of political department.

(*2*) Notwithstanding anything in the preceding sub-section, all persons so employed immediately before the commencement of Part III of this Act shall all hold their offices or posts subject to the like conditions of service as to remuneration, pensions or otherwise as theretofore of not less favourable conditions, and in relation to those persons anything which might, but for the passing of this Act, have been done by or in relation to the Secretary of State in Council shall be done by or in relation to the Secretary of State, acting with the concurrence of his advisers.

(*3*) Nothing in this section shall be construed as affecting the application to such persons of the rule of law that, except as otherwise provided by statute, every person employed under the Crown holds office during His Majesty's pleasure.

Provisions for the protection of certain existing officers.

[10]**258.** (*1*) No civil post which, immediately before the commencement of Part III of this Act, was a post in, or a post required to be held by some member of, a Central Service Class I, a Central Service Class II, a Railway Service Class I, a Railway Service Class II, or a Provincial Service, shall, if the abolition thereof would adversely affect any person who immediately before the said date was a member of any such service, be abolished, except—

Provision for protection of existing officers of certain Services.

(*a*) in the case of a post in connection with the affairs of the Federation, by the Governor-General exercising his individual judgment;

(*b*) in the case of a post in connection with the affairs of a Province, by the Governor of the Province exercising his individual judgment.

(*2*) No rule or order affecting adversely the pay, allowances or pensions payable to, or in respect of, a person appointed before the coming into operation of this Part of this Act to a Central Service Class I, to a Railway Service Class I, or to a Provincial service, and no order upon a memorial submitted by any such person, shall be made except—

(*a*) in the case of a person who is serving or has served in connection with the affairs of the Federation, by the Governor-General exercising his individual judgment;

(*b*) in the case of a person who is serving or has served in connection with the affairs of a Province, by the Governor of the Province exercising his individual judgment.

(*3*) In relation to any person mentioned in this section who was appointed to a civil service of, or civil post under, the Crown in India by the Secretary of State or the Secretary of State in Council, or is an officer in His Majesty's forces, the foregoing provisions of this section shall have

effect as if for the reference to the Governor-General or the Governor, as the case may be, there was substituted a reference to the Secretary of State.

Provisions as to certain persons serving in or before 1924.

[10]**259.** (1) The salary and allowances of any person who was appointed before the first day of April, nineteen hundred and twenty four, otherwise than by the Secretary of State in Council, to a service or a post which at any time between that date and the coming into operation of this Part of this Act was classified as a superior service or post shall be charged, if he is serving in connection with the affairs of the Federation, on the revenues of the Federation and, if he is serving in connection with the affairs of a Province, on the revenues of that Province:

Provided that, if any such person as aforesaid is serving in connection with the railways in India, so much only of his salary and allowances shall be charged on the revenues of the Federation as is not paid out of the railway fund.

(2) Any pension payable to or in respect of a person appointed as aforesaid, and any government contributions to any provident fund or pensions fund in respect of any such person, shall be charged on the revenues of the Federation.

(3) The provisions of the last preceding sub-section shall also apply in relation to persons who retired before the first day of April, nineteen hundred and twenty-four, and before they retired belonged to services or held posts which were as from the said date classified as superior services or posts, or which are declared by the Secretary of State to have been services or post equivalent in character to services or posts so classified

General provisions as to persons retiring before commencement of Part III.

260. (1) Except as otherwise expressly provided in this chapter, any pension payable to or in respect of any person who, having been appointed to a civil service of, or a civil post under, the Crown in India, retired from the service of His Majesty before the [11][commencement of Part III of this Act shall, if it would have been payable by the Local Government in any Province if this Act had not been passed, be paid out of the revenues of the corresponding Province and in any other case shall be paid out of the revenues of the Federation].

(2) Any pension payable to or in respect of any person who, having served in Burma or Aden, retired from an All-India Service, a Central Service Class I, a Central Service Class II. Railway Service Class I, or a Railway Service Class II, before the commencement of Part III of ths Act shall be paid out of this revenues of the Federation, but save as aforesaid nothing in this section applies to any person who retired after service in Burma or Aden.

Miscellaneous.

Secretary of State to act with concurrence of his advisers.

[10]**261.** The powers conferred by this and the subsequent chapters of this Part of this Act on the Secretary of State shall not be exercisable by him except with the concurrence of his advisers.

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11. Substituted, by *ibid.*, by the following—
'establishment of the Dominion shall, if it would have been payable by the Government of any Province if the Indian Independence Act, 1947, had not been passed, be paid out of the revenues of that Province, or, if that Province has ceased to exist, of such new Province as may be determined by orders made under that Act, and in any other case shall be paid out of the revenues of the Dominion of India or Pakistan as may be so determined".

Eligibility for office of persons who are not British subjects.

262. (1) The Ruler or a subject of a Federated States shall be eligible to hold any civil office under the Crown in India in connection with the affairs of the Federation, and the Governor General may declare that the Ruler or [12][the subjects, or any named subject, of a specified Indian State] which is not a Federated State, or [13][the natives, or any named native, of a specified tribal area or territory adjacent to India], shall be eligible to hold any such office, [14][* * * *].

(2) The Governor of a Province may declare that the Ruler or [12][the subjects or any named subject, of a specified Indian State] or [13][the natives or any named native, of a specified tribal area or territory adjacent to India] shall be eligible to hold any civil office in connection with the affairs of the Province [13][* * *].

[10][(3) The Secretary of State may declare that any named subject of an Indian State, or any named native of a tribal area or territory adjacent to India, shall be eligible for appointments, and any person who, having been so declared eligible, is appointed to such a service, shall be eligible to hold any civil office under the Crown in India].

(4) Subject as aforesaid and to any other express provisions of this Act, no person who is not a British subject shall be eligible to hold any office under the Crown in India:

Provided that—

[15][(*a*) a person who at the end of March nineteen hundred and forty [16][is in the permanent service of the Crown in India] shall not be ineligible to hold any office under the Crown in India by reason that he is not a British subject: and]

[15][(*b*) the Governor-General or, in relation to a Province, the Governor may authorise the temporary employment for any purpose of a person who is not a British subject].

[10][(5) In the discharge of his functions under this section the Governor-General or the Governor of a Province shall exercise his individual judgment].

Joint services and posts.

263. If an agreement is made between the Federation and one or more Provinces, or between two or more Provinces, for the maintenance or creation of a service common to the Federation and one or more Provinces, or common to two or more Provinces or for the maintenance or creation of a post the functions whereof are not restricted to the affairs of the Federation or one Province, the agreement may make provision that the Governor-General or any Governor, or any Public Service Commission, shall do in relation to that service or post anything which would under the provisions of this chapter be done by the Governor or the Provincial Public Service Commission if the service or post was a service or post in connection with the affairs of one Province only.

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12. *Substituted* by the India and Burma (Miscellaneous Amendments) Act, 1940 (3 and 4 Geo. 6, ch. 5), S. 9, for "any subject of a specified Indian State" [*effective* from 1-4-1943].
13. *Substituted*, *ibid.*, for 'any named native of a tribal area or territory to India".
14. The words "being an office specified in the declaration" were omitted, by *ibid*, [*effective* from 1-4-1940].
15. *Inserted*, by *ibid* [*effective* from 1-4-1940].
16. Substituted, by *ibid.*, the following—
"was in the permanent service of the Crown in India (within the meaning of this Act as originally enacted)."

CHAPTER III.

PUBLIC SERVICE COMMISSIONS.

Public Service Commissions.

264. (1) Subject to the provisions of this section, there shall be a Public Service Commission for the Federation and a Public Service Commission for each Province.

(2) Two or more Provinces may agree—

(*a*) that there shall be one Public Service Commission for that group of Provinces; or a

(*b*) that the Public Service Commission for one of the Provinces shall serve the needs of all the Provinces,

and any such agreement may contain such incidental and consequential provisions as may appear necessary or desirable for giving effect to the purposes of the agreement and shall, in the case of an agreement that there shall be one Commission for a group of Provinces, specify by that Governor or Governors the functions which are under this Part of this Act to be discharged by the Governor of a Province are to be discharged.

(3) The Public Service Commission for the Federation if requested so to do by the Governor of a Province may, with the approval of the Governor-General, agree to serve all or any of the needs of the Province.

(4) References in this Act to the Federal Public Service Commission or a Provincial Public Service Commission shall, unless the context otherwise requires, be construed as references to the Commission serving the needs of the Federation or, as the case may be, the Province as respects the particular matter in question.

Composition and staff of Commissions.

265. (1) The chairman and other members of a Public Service Commission shall be appointed, in the case of the Federal Commission by the Governor-General in his discretion, and in the case of a Provincial Commission, by the Governor of the Province in his discretion:

Provided that at least one-half of the members of every Public Service Commission shall be persons who at the dates of their respective appointments have held office for at least ten years under the Crown [1][in India].

(2) In the case of the Federal Commission, the Governor-General in his discretion and, in the case of a Provincial Commission, the Governor of the Province in his discretion, may by regulations—

(*a*) determine the number of members of the commission, their tenure of office and their conditions of service; and

(*b*) make provision with respect to the numbers of staff of the commission and their conditions of service.

(3) On ceasing to hold office—

(*a*) the chairman of the Federal Commission shall be ineligible for further employment under the Crown in India;

(*b*) the chairman of a Provincial Commission shall be eligible for appointment as the chairman or a member of the Federal Commission, or as the chairman of another Provincial Commission, but not for any other employment under the Crown in India;

1. Omitted, by the India (Provisional Constitution) Order, 1947.

(*c*) no other member of the Federal or of any Provincial Commission shall be eligible for any other appointment under the Crown in India without the approval, in the case of an appointment in connection with the affairs of a Province, of the Governor of the Province in his discretion and, in the case of any other appointment, of the Governor-General in his discretion.

Functions of Public Service Commissions.

266. (1) It shall be the duty of the Federal and the Provincial Public Service Commissions to conduct examinations for appointments to the services of the Federation and the services of the Province respectively.

(2) It shall also be the duty of the Federal Public Service Commission, if requested by any two or more Provinces so to do, to assist those Provinces in framing and operating schemes of joint recruitment for their forest services, and any other services for which candidates possessing special qualifications are required.

(3) [1][The Secretary of State as respects services and posts to which appointments are made by him], the Governor-General in his discretion as respects [1][other] services and posts in connection with the affairs of the Federation, and the Governor in his discretion as respects other services and posts in connection with the affairs of a Province, may make regulations specifying the matters in which either generally, or in any particular class of case or in any particular circumstances, it shall not be necessary for a Public Service Commission to be consulted but, subject to regulations so made and to the provisions of the next succeeding sub-section, the Federal Commission or, as the case may be, the Provincial Commission shall be consulted—

(*a*) on all matters, relating to methods of recruitment to civil services and for civil posts;

(*b*) on the principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another and on the suitability of candidates for such appointments, promotions or transfers;

(*c*) on all disciplinary matters affecting a person serving His Majesty in a civil capacity in India, including memorials or petitions relating to such matters;

(*d*) on any claim by or in respect of a person who is serving or has served His Majesty in a civil capacity in India that any costs incurred by him in defending legal proceedings instituted against him in respect of acts done or purporting to be done in the execution of his duty should be paid out of the revenues of the Federation or, as the case may be, the Province;

(e) on any claim for the award of a pension in respect of injuries sustained by a person while serving His Majesty in a civil capacity in India, and any question as to the amount of any such award,

and it shall be the duty of a Public Service Commission to advise on any matter so referred to them and on any other matter which the Governor-General in his discretion, or, as the case may be, the Governor in his discretion, may refer to them.

(4) Nothing in this section shall require a Public Service Commission to be consulted as respects the manner in which appointments and posts are

to be allocated as between [2][the various communities in the Federation or a Province or, in the case of the subordinate ranks of the various police forces in India], as respects any of the matters mentioned in paragraphs (*a*), (*b*) and (*c*) of sub-section (3) of this section.

Power to extend functions of Public Service Commission.

267. Subject to the provisions of this section, an Act of the Federal Legislature or the Provincial Legislature may provide for the exercise of additional functions by the Federal Public Service Commission or, as the case may be, by the Provincial Public Service Commission:

Provided that—

(*a*) no Bill or amendment for the purposes aforesaid shall be introduced or moved without the previous sanction of the Governor-General in his discretion, or as the case may be, of the Governor [1][in his discretion; and

(*b*) it shall be a term of every such Act that the functions conferred by it shall not be exercisable—

(i) in relation to any person appointed to a service or a posts by the Secretary of State or the Secretary of State in Council, any officer in His Majesty's Forces, or any holder of a reserved post, except with the consent of the Secretary of State or

(ii) Where the Act is a provincial Act, in relation to any person who is not a member of one of the services of the Province, except with the consent of the Governor-General].

Expenses of Public Service Commissions.

268. The expenses of the Federal or a Provincial Public Service Commission, including any salaries, allowances and pensions payable to or in respect of the members or staff of the Commission, shall be charged on the revenues of the Federation or, as the case may be, the Province.

Provided that nothing in this section shall charge on the revenues of a Province any pension which is by virtue of the provisions of chapter II of this Part of this Act charged on the revenues of the Federation.

CHAPTER IV.

CHAPLAINS.

Provisions as to chaplains.

[1]**269.** (1) There may, as heretofore, be an establishment of chaplains to minister in India to be appointed by the Secretary of State and the provisions of chapter II of this Part of this Act shall, with any necessary modifications, apply in relation to that establishment and to persons appointed as chaplains by the Secretary of State or by the Secretary of State in Council, as they apply in relation to the civil services to which appointments are to be made by the Secretary of State and to persons appointed to a civil service under the Crown in India by the Secretary of State or by the Secretary of State in Council, and for the purposes of the provisions of chapter II relating to persons who retired before the commencement of

2. Substituted, by *ibid.*, by the following—
'communities or in the case of the subordinate ranks of police forces'.

1. Omitted, by the India (Provisional Constitution) Order, 1947.

Part II of this Act the said establishment shall be deemed to be an All-India Service.

(2) So long as an establishment of chaplains is maintained in the Province of Bengal, two members of that establishment in the Province must always be ministers of the Church of Scotland and shall be entitled to have out of the revenues of the Federation such salary as is from time to time allotted to the military chaplains in that Province.

This sub-section applies to the Province of Madras and to the Province of Bombay as it applies to the Province of Bengal.

(3) The ministers of the Church of Scotland so appointed chaplains must be ordained and inducted by the Presbytery of Edinburgh according to the forms and solemnities used in the Church of Scotland, and shall be subject to the spiritual and ecclesiastical jurisdiction in all things of the Presbytery of Edinburgh, whose judgments shall be subject to dissent, protest and appeal to the Provincial Synod of Lothian and Tweeddale and to the General Assembly of the Church of Scotland.

CHAPTER V.

GENERAL.

Indemnity for past acts.

[1]**270.** (1) No proceedings civil or criminal shall be instituted against any person in respect of any act done or purporting to be done in the execution of his duty as a servant of the Crown in India or Burma before the relevant date, except with the consent, in the case of a person who was employed in connection with the affairs of the Government of India or the affairs of Burma, of the Governor-General in his discretion, and in the case of a person employed in connection with the affairs of a Province, of the Governor of that Province in his discretion.

(2) Any civil or criminal proceedings instituted, whether before or after the coming into operation of this Part of this Act, against any person in respect of any act done or purporting to be done in the execution of his duty as a servant of the Crown in India or Burma before the relevant date shall be dismissed unless the Crown is satisfied that the acts complained of were not done in good faith, and, where any such proceedings are dismissed, the costs incurred by the defendant shall, in so far as they are not recoverable from the persons instituting the proceedings, be charged, in the case of persons employed in connection with the functions of the Governor-General in Council or the affairs of Burma, on the revenues of the Federation, and in the case of persons employed in connection with the affairs of a Province on the revenues of that Province.

(3) For the purposes of this section—

the expression "the relevant date" means, in relation to acts done by persons employed about the affairs of a Province or about the affairs of Burma, the commencement of Part III of this Act and, in relation to acts done by persons employed about the affairs of the Federation, the date of the establishment of the Federation;

references to persons employed in connection with the functions of the Governor-General in Council include reference to persons employed in connection with the affairs of any Chief Commissioner's Province;

1. Omitted, by the India (Provisional Constitution) Order, 1947.

a person shall be deemed to have been employed about the affairs of a Provvince if he was employed about the affairs of the Province as constituted at the date when the act complained of occurred or is alleged to have occurred.

Protection of public servants against prosecution and suits.

271. (1) No Bill or amendment to abolish or restrict the protection afforded to certain servants of the Crown in India by section one hundred and ninety-seven of the [1][Indian] Code of Criminal Procedure[2], or by sections eighty to eighty-two of the [1][Indian] Code of Civil Procedure[3], shall be introduced or moved in [1][either Chamber of] the Federal Legislature without the previous sanction of the Governor-General in his discretion, or in a Chamber of a Provincial Legislature without the previous sanction of the Governor in his discretion.

[1][(2) The powers conferred upon a Local Government by the said section one hundred and ninety-seven with respect to the sanctioning of prosecutions and the determination of the Court before which, the person by whom and the manner in which, a public servant is to be tried, shall be exercisable only—

(*a*) in the case of a person employed in connection with the affairs of the Federation by the Governor-General exercising his individual judgment; and

(*b*) in the case of a person employed in connection with the affairs of a Province, by the Governor of that Province exercising his individual judgment:

Provided that nothing in this sub-section shall be construed as restricting the power of the Federal or a Provincial Legislature to amend the said section by a Bill or amendment introduced or moved with such previous sanction as is mentioned in sub-section (1) of this section].

(3) Where a civil suit is instituted against a public officer, within the meaning of that expression as used in the [1][Indian] Code of Civil Procedure[3], in respect of any act purporting to be done by him in his official capacity, the whole or any part of the costs incurred by him and of any damages or costs ordered to be paid by him shall, if the Governor-General exercising his individual judgment so directs in the case of a person employed in connection with the affairs of the Federation, or if the Governor exercising his individual judgment so directs in the case of a person employed in connection with the affairs of a Province, be defrayed out of and charged on the revenues of the Federation or of the Province as the case may be.

Provisions as to payment of certain pensions and exemption of those pensions from taxation in India.

[1]**272.** Any pension payable to or in respect of a person who—

(*a*) before the commencement of Part III of this Act had served His Majesty in India, Burma or Aden, or elsewhere under the Governor-General in Council; or

(*b*) after the commencement of Part III of this Act—

(*i*) serves in India as an officer of His Majesty's forces; or

(*ii*) is appointed to a civil service of, or to an office or post under, the Crown in India by His Majesty or the Secretary of State; or

2. Inserted, by *ibid.*, '1898'.
3. Inserted, by *ibid*, '1908'.

(*iii*) holds a reserved post,

shall, if the person to whom the pension is payable is residing permanently outside India, be paid on behalf of the Federation or the Province, as the case may be, by, or in accordance with arrangements made with, the Secretary of State, and be exempt from all taxation imposed by or under any existing Indian law, or any law of the Federal or of a Provincial Legislature.

Provisions as to family pension funds.

[1]**273.** (1) His Majesty may by Order in Council provide for the vesting in Commissioners to be appointed under the Order of—

(*a*) the Indian Military Widows and Orphans Fund;

(*b*) the Superior Services (India) Family Pension Fund;

(*c*) a fund to be formed out of the moneys contributed and to be contributed under the Indian Military Service Family Pension Regulations for the purpose of paying pensions payable under those regulations;

(*d*) a fund to be formed out of the moneys contributed and to be contributed under the Indian Civil Services Family Pension Rules for the purpose of paying pensions payable under those rules.

For the investment of the said funds by the Commissioners, in such manner as, subject to the provisions of the Order, they think fit, for the administration of the said funds in other respects by the Secretary of State, for the remuneration of the Commissioners out of the said funds, and for any other matters incidental to or consequential on the purposes of the Order; and if any such Order is made, then, as from such date as may be specified in the Order, any pensions payable under the said regulations and rules, shall, subject to the provisions of sub-section (3) of this section be payable out of the appropriate fund in the hands of the Commissioners, and not otherwise.

Before recommending His Majesty to make any Order in Council under this sub-section the Secretary of State shall consider any representations made to him by any of the existing subscribers and beneficiaries or by any persons appearing to him to represent any body of those subscribers or beneficiaries.

(2) Any such Order as aforesaid shall provide that [4][the balance in the hands of the Secretary of State in Council on the thirty-first day of March nineteen hundred and thirty-seven]; in respect of the Indian Military Widows and Orphans Fund and the Superior Services (India) Family Pension Fund, and in respect of the moneys theretofore contributed under the Indian Military Service Family Pension Regulations and the Indian Civil Service Family Pension Rules shall, subject to the provisions of sub-section (3) of this section, be transferred to the Commissioners before the expiration of [3][two years) from the said date either all at one time or by instalments, together with such interest as may be prescribed by or under the Order:

Provided that His Majesty in Council may, if it appears to him necessary so to do, extend the said period of [3][two years].

(3) Any such Order as aforesaid shall provide for the making of

4. *Substituted* by the India and Burma (Miscellaneous Amendments) Act, 1940 (3 and 4 Geo. 6 ch 5), S 10, for the balance in the hands of the Governor-General on the thirty-first day of March next following the passing of this Act"

3. *Substituted*, *ibid*, for three years.

objections by and on behalf of existing subscribers and beneficiaries to the vesting of any such fund as aforesaid in the Commissioners and, if any objection is so made in the manner and within the time limited by the Order—

(*a*) So much of any money in the hands of [4][The Secretary of State in Council as represents the interest of the objector shall not be transferred to the Commissioners, but shall be dealt with as part of the revenues of the Federation; and

(*b*) in lieu of any pensions which might be payable out of the said funds to or in respect of the objectors there shall be payable out of the revenues of the Federation to and in respect of the said persons such pensions on such conditions as may be specified in rules to be made by the Secretary of State.

(4) Any such Order as aforesaid may, notwithstanding anything in this Part of this Act or in the regulations or rules relating to the fund in question, provide for the making of such alterations in any pensions payable out of the fund to which the Order relates as may be reasonably necessary in consequence of the transfer effected under the Order.

(5) Any interest or dividends received by the Commissioners on sums forming part of any fund vested in them under this section shall be exempt from income-tax in the United Kingdom, and estate duty shall not be payable in Great Britain, nor, if the Parliament of Northern Ireland, so provides in Northern Ireland, in respect of any pension payable under the regulations or rules relating to any such fund.

(6) In this section—

references to the Indian Military Service Family Pension Regulations or the Indian Civil Service Family Pension Rules shall be construed as including references to any regulations or rules which may be substituted therefor;

the expression "existing subscribers and beneficiaries" means, in relation to the Indian Military Widows and Orphans Fund and the Superior Services (India) Family Pension Fund, persons who have subscribed to, or, are or have been in receipt of pensions from, those funds and, in relation to the funds to be formed out of the moneys contributed under the Indian Military Service Family Pension Regulations and the Indian Civil Service Family Pension Rules, Persons who have contributed under, or are or have been in receipt of pensions payable under, the regulations or rules, not being persons who have surrendered or forfeited their interest in the fund or, as the case may be, their interest under the regulations or rules:

references to pensions payable under the said regulations or the said rules do not include references to any pension or portion of a pension payable otherwise than out of the moneys contributed and to be contributed under those regulations or rules;

references to moneys so contributed, or to be so contributed, include references to interest upon such moneys.

(7) Notwithstanding anything in this Act, and in particular notwithstanding the separation of Burma and Aden from India, the provisions of this section shall apply in relation to persons who, before the commencement of Part III of this Act, were serving His Majesty in India, Burma or Aden, and after the commencement thereof continue to serve His Majesty in Burma or Aden, as they apply in relation to other persons who are serving

4. *Substituted, ibid,* for "the Governor-General".

or have served His Majesty in India, and accordingly the regulations and rules relating to any such fund may apply in relation to any such persons as aforesaid.

If any Order in Council is made under this section, and if Provision in that behalf is made by the Acts or rules relating to conditions of service of persons serving His Majesty in Burma, the said regulations and rules may also extend to persons appointed to the service of the Crown in Burma after the commencement of Part III of this Act.

Saving for certain Funds Acts.

[1]**274.** Notwithstanding anything in this Art, the India Military Funds Act, 1866 the East India Annuity Funds Act, 1874 and the Bombay Civil Fund Act, 1882, shall continue to have effect but subject to the following adaptations, that is to say, that anything to be done under the said Acts by or to the Secretary of State in Council shall, after the commencement of Part III of this Act, be done by or to the Secretary of State, and for any reference in the said Acts to the revenues of India there shall be substituted a reference to the revenues of the Federation.

Persons not to be disqualified by sex for holding certain offices.

275. A person shall not be disqualified by sex for being appointed to any civil service of, or civil post under, the Crown in India other than such a service or post as may be specified by any general or special order made—

(*a*) by the Governor-General in the case of services and posts in connection with the affairs of the Federation;

(*b*) by the Governor of a Province in the case of services and posts in connection with the affairs of the Province;

[1][(*c*) by the Secretary of State in relation to appointments made by him].

Provided that any such agreement with respect to joint services and post as is mentioned in chapter II of this Part of this Act may provide for the powers conferred by this section on the Governor-General and the Governor of a Province being exercised, with respect to the services or posts to which the agreement applies, by the Governor-General or a specified Governor.

Transitional provisions.

276. Until other provision is made under the appropriate provisions of this Part of this Act, any rules made under the Government of India Act relating to the civil services of, or civil posts under, the Crown in India which were in force immediately before the commencement of Part III of this Act, shall, notwithstanding the repeal of that Act, continue in force so far as consistent with this Act, and shall be deemed to be rules made under the appropriate provisions of this Act.

277. (1) In this Part of this Act—

the expressions "All-India Service", "Central Service Class I" "Central Services Class II," "Railway Service Class I," "Railway Service Class II" and "Provincial Service" mean respectively the services which were immediately before the commencement of Part III of this Act, so described respectively in the classification rules then in force under section ninety-six B of the Government of India Act; and

references to dismissal from His Majesty's service include references to removal from His Majesty's service.

[1][(2) References in this Part of this Act to persons appointed to a civil service of, or a civil post under, the Crown in India—

(*a*) include references to persons who, after service in India, Burma or Aden, retired from the service of His Majesty before the commencement of Part III of this Act;

(*b*) do not include references to persons so appointed who, after the commencement of Part III of this Act, become members of a civil service of, or hold civil posts under, the Crown in Burma or Aden].

[1][(3) The inclusion in this Part of this Act of provisions expressly requiring the Governor-General or a Governor to exercise his individual judgment with respect to any matter shall not be construed as derogating from the special responsibility of the Governor-General and the Governors for the securing to, and to the dependants of, persons who are or have been members of the public services of any rights provided or preserved for them by or under this Act ond the safeguarding of their legitimate interests].

PART XI[1].

THE SECRETARY OF STATE, HIS ADVISERS AND HIS DEPARTMENT.

Advisers to Secretary of State.

[2]**278.** (1) There shall be a body of persons appointed by the Secretary of State, not being less than three nor more than six in number, as the Secretary of State may from time to time determine, whose duty it shall be to advise the Secretary of State on any matter relating to India on which he may desire their advice.

(2) One-half at least of the persons for the time being holding office under this section as advisers of the Secretary of State shall be persons who have held office for at least ten years under the Crown in India and have not last ceased to perform in India official duties under the Crown more than two years before the date of their respective appointments as advisers under this section.

(3) Any person appointed as an adviser to the Secretary of State shall hold office for a term of five years and shall not be eligible for reappointment:

Provided that—

(*a*) any person so appointed may by writing under his hand resign his office to the Secretary of State;

(*b*) the Secretary of State may, if he is satisfied that any person so appointed has by reason of infirmity of mind or body become unfit to continue to hold his office, by order remove him from his office.

(4) A person for the time being holding office as adviser to the Secretary of State shall not be capable of sitting or voting in either House of Parliament.

(5) There shall be paid out of moneys provided by Parliament to each of the advisers of the Secretary of State a salary of thirteen hundred and fifty pounds a year, and also to any of them who at the date of his

1. This Part came into force on 1-4-1937—*See* Government of India (Commencement and Transitory Provisions) Order, 1936, para. 3.
2. Omitted, by the India (Provisional Constitution) Order, 1947.

appointment was domiciled in India a subsistence allowance of six hundred pounds a year.

(6) Except as otherwise expressly provided in this Act, it shall be in the discretion of the Secretary of State whether or not he consults with his advisers of any matter, and, if so, whether he consllts with them collectively or with one or more of them individually, and whether or not he acts in accordance with any advice given to him by them.

(7) Any provision of this Act which requires that the Secretary of State shall obtain the concurrence of his advisers shall be deemed to be satisfied if at a meeting of his advisers he obtains the concurrence of at least one-half of those present at the meeting, or if such notice and opportunity for objection as may be prescribed has been given to those advisers and none of them has required that a meeting shall be held for discussion of the matter.

In this sub-section "prescribed" means prescribed by rules of business made by the Secretary of State after obtaining at a meeting of his advisers the concurrence of at least one-half of those present at the meeting.

(8) The Council of India as existing immediately before the commencement of Part III of this Act shall be dissolved.

(9) Notwithstanding anything in the foregoing provisions of this section, a person who immediately before the commencement of Part III of this Act was a member of the Council of India may be appointed under this section as an adviser to the Secretary of State to hold office as such for such period less than five years as the Secretary of State may think fit.

Existing accounts of Secretary of State in Council with Bank of England.

[2]**279.** (1) All stock or money standing to the credit of the Secretary of State in Council in the books of the Bank of England at the commencement of Part III of this Act shall, as from that date, be transferred to the credit of the Secretary of State, and any order or instrument with respect to that stock or money executed by the Secretary of State or by such person as may be authorised in writing by the Secretary of State for the purpose, either generally or specially, shall be a sufficient authority and discharge to the Bank in respect of anything done by the Bank of accordance therewith.

(2) Any directions, authority or power-of-attorney given or executed by or on behalf of the Secretary of State in Council and in force at the commencement of Part III of this Act shall continue in force until countermanded or revoked by the Secretary of State.

Organisation and expenses of India Office.

[2]**280.** (1) As from the commencement of Part III of this Act the salary of the Secretary of State and the expenses of his department, including the salaries and remuneration of the staff thereof, shall be paid out of moneys provided by Parliament.

(2) Subject to the provisions of the next succeeding section with respect to the transfer of certain existing officers and servants, the Secretary of State may appoint such officers and servants as he, subject to the consent of the Treasury as to numbers, may think fit and there shall be paid to persons so appointed such salaries or remuneration as the Treasury may from time to time determine.

(3) There shall be charged on and paid out of the revenues of the Federation into the Exechequer such periodical or other sums as may from

time to time be agreed between the Governor-General and the Treasury in respect of so much of the expenses of the department of the Secretary of State as is attributable to the performance on behalf of the Federation of such functions as it may be agreed between the Secretary of State and the Governor-General that that department should so perform.

Transfer for existing personnel.

[2]**281.** [1](1) All persons who immediately before the commencement of Part III of this Act were officers or servants on the permanent establishment of the Secretary of State in Council shall on that date be transferred to the department of the Secretary of State and shall be deemed to be permanent Civil Srvants of the State.

(2) Subject as hereinafter provided, the provisions of the Superannuation Acts, 1834 to 1935, and of any orders, rules and regulations made thereunder shall apply in relation to a person so transferred as aforesaid as they apply in relation to a person entering the Civil Service with a certificate from the Civil Service Commissioners, and for the purposes of those Acts, orders, rules and regulations his service shall be reckoned as if service on the permanent establishment of, and employment by, the Secretary of State in Council had at all times been service or employment in a public department the expenses whereof were wholly defrayed out of moneys provided by Parliament.

Provided that neither the Superanuation Act, 1909 nor section four of the Superannuation Act, 1935 shall apply in relation to any person so transferred unless that Act, or, as the case may be, that section (as applicable to persons on the permanent establishment of the Secretary of State in Council) would have applied in relation to him if this Act had not been passed.

(3) His Majesty may by Order in Council direct that in their application to any person so transferred the said Acts, orders, rules and regulations shall have effect subject to any such modifications as may appear to His Majesty to be necessary for securing that the case of any such person shall not be dealt with if this Act had not been passed and he had continued to serve on the establishment of the Secretary of State in Council.

(4) All persons who, not being on the permanent establishment of the Secretary of State in Council, were immediately before the commencement of Part III of this Act officers or servants employed in the United Kingdom by the Secretary of State in Council shall on that date be transferred to the department of the Secretary of State and, for the purposes of the Superannuation Acts, 1834 to 1935, and the orders, rules and regulations made thereunder, employment by the Secretary of State in Council shall be treated as if it had been employment by the Secretary of State.

(5) If the conditions of service of any person to whom the last preceding sub-section applies included a condition as to eligibility for a retiring allowance in consideration of meritorious service, the Treasury may, if they think fit, grant to him such an allowance on his retirement.

(6) Notwithstanding anything in the Pensions Commutation Acts, 1877 to 1882, it shall be lawful for the Treasury to commute for a capital sum so much of any superannuation, compensation or retiring allowance as is payable out of moneys provided by Parliament to a person so transferred as aforesaid and for the Secretary of State so to commute so much of any such allowance as is payable to such a person out of the revenues of the Federation.

Any such commutation shall be made upon such conditions as His Majesty in Council may direct, not being more favourable than the conditions which would have applied to the person in question if he had retired from the establishment of the Secretary of State in Council.

Contributions from revenues of Federation.

282. (1) So much of any superannuation allowances, compensation allowances, retiring allowances, additional allowances or gratuities which may become payable to or in respect of officers and servants transferred by His Majesty in Council may determined to represent the proportion of the last preceding section to the department of the Secretary of State as such allowances or gratuities attributable to service before the date of transfer shall be paid out of the revenues of the Federation:

Provided that account shall not be taken of any service before the date of transfer in respect of which such an allowance or gratuity payable out of money provided by Parliament might, if this Act had not been passed, have been awarded under the Suyerannuation Acts, 1834 to 1935.

(2) If any officer or servant so transferred to the department of the Secretary of State, or any person who, having been previously on the establishment of the Secretary of State in Council, was immediately before the commencement of Part III of this Act a member of the staff of the High Commissioner for India, or any person who immediately before the commencement of Part III of this Act was the Auditor of the Accounts of the Secretary of State in Council or a member of his staff, loses his employment by reason of the abolition of his office or post, or by reason of any reorganisation of the department or of his office, where such abolition or reorganisation results in the opinion of the Secretary of State from the operation of this Act or the Government of Burma Act, 1935, the Secretary of State shall award to that officer or servant out of the revenues of the Federation such compensation as he may think just and equitable in augmentation of any allowance or gratuity for which that officer or servant may be otherwise eligible.

(3) Any payments directed by this section to be made out of the revenues of the Federation shall be charged upon those revenues.

Liability for pensions in respect of service before commencement of Part III.

283. (1) The liability for payment of any superannuation allowances, compensation allowances, retiring allowances additional allowances and gratuities which immediately before the commencement of Part III of this Act were payable to or in respect of persons in respect of service on the establishment of the Secretary of State in Council, or in respect of service as Auditor of the Accounts of the Secretary of State in Council, or in respect of service as member of that Auditor's staff, or partly in respect of service on the establishment of the Secretary of State in Council or as a member of that Auditor's staff and partly in respect of service as a member of the staff of the High Commissioner for India shall be a liability of the Government of the Federation, and these allowances and gratuities shall be charged upon the revenues of the Federation.

(2) The provisions of sub-section (1) of this section shall also apply to so much of any superannuation allowances, compensation allowances, retiring allowances, additional allowances, and gratuities awarded after the commencement of Part III of this Act to persons not transferred by the last but one preceding section as is attributable to such service before the commencement of Part III of this Act as is mentioned in the said sub-section (1).

Provision as to certain India Office provident funds.

[2]**284.** Any sums which, if this Act had not been passed, would have been payable, whether as of right or not, by the Secretary of State in Council out of the revenues of India to or in respect of a person who was a subscriber to the Regular Widows' Fund, the Elders Widows' Fund, or the India Office Provident Fund, shall be paid out of the revenues of the Federation and charged on those revenues.

Confirmation of appointments to India Office staff and staff of Auditor of Indian Home Accounts.

[3]**284A.** (1) Any appointment which the Secretary of State in Council has purported to make to his permanent establishment before the commencement of Part III of this Act, and any increases which he has purported to make in the salaries of persons on that establishment, shall for all purposes be deemed to have been validly made notwithstanding that the making thereof was not sanctioned by an Order of His Majesty in Council as provided by section seventeen of the Government of India Act.

(2) Any appointments which the Auditor of the accounts of the Secretary of State in Council has purported to make to his staff before the commencement of the said Part III shall be deemed to have been validly made notwithstanding that the making thereof was not authorised by such a warrant of His Majesty as is mentioned in section twenty-seven of the Government of India Act, and all salaries paid to any person on the said Auditor's staff shall be deemed to have been duly paid notwithstanding that they were not so authorised.]

PART XII[1].

MISCELLANEOUS AND GENERAL.

The Crown and the Indian States.

Saving for rights and obligations of the Crown in its relations with Indian States.

[2]**285.** Subject in the case of a Federal State to the provisions of the Instrument of Accession of that State, nothing in this Act affects the rights and obligations of the Crown in relation to any Indian State.

Use of His Majesty's forces in connection with discharge of the functions of the Crown in its relations with Indian States.

[2]**286.** (1) If His Majesty's Representative for the exercise of the functions of the Crown in its relations with Indian States requests the assistance of armed forces for the due discharge of those functions, it shall be the duty of the Governor-General in the exercise of the executive authority of the Federation to cause the necessary forces to be employed accordingly, but the net additional expense, if any, incurred in connection with those forces by reason of that employment shall be deemed to be expenses of His Majesty incurred in discharging the said functions of the Crown.

(2) In discharging his functions under this section the Governor-General shall act in his discretion.

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3. *Added* by the India & Burma (Miscellaneous Amendment) Act, 1940, and *omitted* by the India (Provisional Constitution) Order, 1947.
1. This Part came into force on 1-4-1937; *see* Government of India (Commencement and Transitory Provisions) Order, 1936, para. 3.
2. Omitted, by the India (Provisional Constitution) Order, 1947.

Arrangement for Governors and Provincial staff to assist in discharging functions of Political Department.

[2]**287.** Arrangements may be made between His Majesty's Representative for the exercise of the functions of the Crown in its relations with Indian States and the Governor of any Province for the discharge by the Governor and officers serving in connection with the affairs of the Province of powers and duties in connection with the exercise of the said functions of the Crown.

Aden.

Aden.

[2]**288.** (1) On such date as His Majesty may by Order in Council appoint (in this section referred to as "the appointed day") the then existing Chief Commissioner's Province of Aden (in this section referred to as "Aden") shall cease to be a part of British India.

(2) At any time after the passing of this Act it shall be lawful for His Majesty in Council to make such provision as he deems proper for the government of Aden after the appointed day, and any such Order in Council may delegate to any person or persons within Aden power to make laws for the peace, order and good government of Aden, without prejudice to the power of His Majesty in Council, notwithstanding such delegation, from time to time to make laws for any of the purposes aforesaid.

(3) An Order made by His Majesty in Council by virtue of the preceding sub-section may, without prejudice to the generality of the words of that sub-section, contain provisions with respect to—

(*a*) the continuing validity of all Acts, orders, ordinances and regulations in force in Aden immediately before the appointed day;

(*b*) the continuing validity of lawful acts done by any authority in Aden before the appointed day;

(*c*) the validity and continuance of proceedings commenced before the appointed day in any Court of Justice in, or having jurisdiction in, Aden; and

(*d*) the enforcement by or against the Government of Aden of claims which, if this Act had not been passed, might have been enforced by or against the Secretary of State in Council in connection with the administration of Aden.

(4) If any such Order is made, it shall confer appellate jurisdiction from courts in Aden upon such court in India as may be specified in the Order, and it shall be the duty of any court in India upon which jurisdiction is so conferred to exercise that jurisdiction, and such contribution, if any, as His Majesty in Council may determine shall be paid out of the revenue of Aden towards the expenses of that court.

The Order shall also make provision specifying the cases in which an appeal from that court in India may be brought to His Majesty in Council.

(5) Any property which immediately before the separation of Aden from India was vested in His Majesty for the purposes of the Government of India and either was then situate in Aden, or, by virtue of any delegation from the Secretary of State in Council or otherwise, was then in the possession, or under the control of, or held on account of, the Local Government of Aden, shall, as from the said separation, vest in His Majesty for the purposes of the Government of Aden, and any contract made or liability incurred by or on behalf of the Secretary of State in Council before the said separation solely for a purpose which will after the separation be a purpose of the Government of Aden shall, as from the separation, have effect as if it had been made or incurred by or on behalf of the Government of Aden.

New Provinces and alterations of boundaries of Provinces.

Creation of new Provinces of Sind and Orissa.

[2]**289.** (1) As from such date[3] as His Majesty may by Order in Council appoint—

(*a*) Sind shall be separated from the Presidency of Bombay and shall form a Governor's Province to be known as the Province of Sind;

(*b*) Orissa and such other areas in the Province of Bihar and Orissa as may be specified in the Order of His Majesty shall be separated from that Province, and such areas as may be separated from the Presidency of Madras and the Central Provinces respectively, and Orissa and the other areas so separated shall together form a Governor's Province to be known as the Province of Orissa; and

(*c*) the Province formerly known as Bihar and Orissa shall be known as the Province of Bihar.

(2) An Order in Council made under this section shall define the boundaries of the Provinces of Sind and Orissa and may contain—

(*a*) such provisions for their government and administration during the period before Part III of this Act comes into operation;

(*b*) such provisions for varying during the said period the composition of the Local Legislature of any Presidency or Province the boundaries of which are altered under this section;

(*c*) such provisions with respect to the laws which, subject to amendment or repeal by the Provincial or, as the case may be, the Federal Legislature, are to be in force in, or in any part of Sind or Orissa respectively;

(*d*) in the case of Orissa, such provisions with respect to the jurisdiction therein of any court theretofore exercising the jurisdiction of a High Court, either generally or for any particular purpose, in any area to be included in the Province;

(*e*) such provisions with respect to apportionments and adjustments of and in respect of assets and liabilities; and

(*f*) such supplemental, incidental and consequential provisions; as His Majesty may deem necessary or proper.

(3) Subject to the provisions of any such Order as aforesaid, the Governor-General in Coucnil may, until the date on which Part III of this Act comes into operation, exercise in relation to the provinces of Sind and Orissa and any Presidency or Province the boundaries of which are altered under this section any powers which he might have exercised if the said new Provinces had been constituted, or those boundaries had been altered, under the provisions in that behalf contained in the Government of India Act.

(4) In this Act the expression "the Legislative Council of the Province" when used in relation to a date before the commencement of Part III of this Act shall in the case of Sind and Orissa be deemed to refer to the Legislative Councils of Bombay and of Bihar or Bihar and Orissa respectively.

Creation of new Provinces and alterations of boundaries of Provinces.

290. (1) Subject to the provisions of this section, [3][His Majesty may by order in Council]—

3. 1-4-1936, *see* the Government of India (Constitution of Sind) Order, 1936 [3-3-1936] and the Government of India (Constitution of Orissa) Order, 1936 [3-3-1936], paras 4, Gazette of India, 1936, Pt. I pp. 364 and 349 respectively.

(*a*) create a new Province;

(*b*) increase the area of any Province;

(*c*) diminish the area of any Province;

(*d*) alter the boundaries of any Province;

Provided that, [4][before the draft of any such Order is laid before Parliament, the Secretary of State shall take such steps as His Majesty may direct for ascertaining the views of the Federal Government and the Chambers of the Federal Legislature and the views of the Government and the Chamber or Chambers of the Legislature] of any Province which will be affected by the Order, both with respect to the proposal to make the Order and with respect to the provisions to be inserted therein.

[5][(2) An order made under this section may contain such provisions for varying the representation in the Federal Legislature of any Governor's Province the boundaries of which are altered by the Order and for varying the composition of the Legislature of any such Province, such provisions with respect to apportionments and adjustments of and in respect of assets and liabilities, and such other supplemental, incidental and consequential provisions as His Majesty may deem necessary or proper:

Provided that no such Order shall vary the total membership of either Chamber of the Federal Legislature.]

(3) In this section the expression "Province" means either a Governor's Province or a Chief Commissioner's Province.

Franchise.

Power of His Majesty to make provision with respect to franchises and elections.

291. In so far as provision with respect to the matters hereinafter mentioned is not made by this Act, [5a][His Majesty in Council may from time to time make provision][6] with respect to those matters or any of them, that is to say—

(*a*) the delimitation of territorial constituencies for the purpose of elections under this Act;

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3. Substituted, by the India (Provisional Constitution) Order, 1947, by the words— 'the Governor-General may by Order".
4. Substituted, by *ibid.*—
"before making any such Order the Governor-General shall ascertain the views of the Government".
5. Substituted, by *ibid.*, as follows—
"(2) An Order made under this sub-section may contain such provisions as the Governor-General may deem necessary or proper—
(*a*) for varying the representation in the Dominion Legislature of any Governor's Province the boundaries of which are altered by the Order;
(*b*) for varying the composition of the Legislature of any such Province;
(*c*) where a new Governor's Province is created, for constituting the Legislature thereof;
(*d*) for apportionments and adjustments of and in respect of assets and liabilities; and
(*e*) for other supplemental, incidental and consequential matters".
5a. Substituted, by *ibid.*—
"in relation to any Provincial Legislature, provision may be made by Act of that Legislature".
6. *See* the following Orders in Council:—
(1) the Government of India (Provincial Legislative Assemblies) Order, 1936.
(2) the Government of India (Provincial Legislative Councils) Order, 1936.
(3) the Government of India (Provincial Elections) (Corrupt Practices and Election Petitions) Order, 1936.
(4) the Government of India (Provincial Legislatures) (Miscellaneous Provisions) Order, 1936.

(*b*) the qualifications entitling persons to vote in territorial or other constituencies at such elections, and the preparation of electoral rolls;

(*c*) the qualifications for being elected at such elections as a member of a legislative body;

(*d*) the filling of casual vacancies in any such body;

(*e*) the conduct of elections under this Act and the methods of voting thereat.

(*f*) the expenses of candidates at such elections;

(*g*) corrupt practices and other offences at or in connection with such elections;

(*h*) the decision of doubts and disputes arising out of, or in connection with such elections;

(*i*) matters ancillary to any such matter as aforesaid.

Provisions as to certain legal matters.

Existing law of India to continue in force.

[3a-4][**292.** Notwithstaning the repeal by this Act of the Government of India Act, but subject to the other provisions of this Act, all the law in force in British India immediately before the Commencement of Part III of this Act shall continue in force in British India until altered or repealed or amended by a competent Legislature or other competent authority.

Adaptation of existing Indian laws, etc.

[3a-5]**293.** His Majesty may by Order in Council [6][to be made at any time after the passing of this Act provide that, as from such date as may be specified in the Order, any law in force in British India or in any part of British India shall, until repealed or amended by a competent Legislature or other competent authority have effected subject to such adaptations and modifications as appear to His Majesty to be necessary or expedient for

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3a. Omitted by the India (Provisional Constitution) Order, 1947.

4. For explanation of the scope of Ss. 292 and 293, *see* the India and Burma (Existing Laws) Act, 1937 1 Edw. 8 and 1 Geo. 6, Ch. 9), S. 9.

Sub-section (1) of section 1 of the said Act is as follows :—"1. (1) For the purposes of sections two hundred and ninety-two and two hundred and ninety-three of the Government of India Act, 1935, which provide for the existing laws of British India to continue in force therein after the date of the commencement of Part III of the said Act, subject to the power of His Majesty in Council to make such adaptations and modifications in any such law as appear to His Majesty to be necessary or expedient for bringing the provisions of that law into accord with the provisions of the said Act,—

(i) a law passed or made before the said date by a Legislature or other competent Authority in British India, and not previously repealed, is, for the removal of doubts, hereby declared to be a law in force immediately before that date, notwithstanding that it, or parts of it, may not then be in operation, either at all or in particular areas;

(ii) any such law which immediately before the said date has extra territorial effect as well as effect in British India shall, subject to any such adaptations and modifications as aforesaid, continue to have extra-territorial effect :

(iii) the power of His Majesty in Council to make in an existing Indian law such adaptations and modifications as aforesaid shall be deemed to include power to declare any such law, or any part thereof, to be repealed, if it appears to His Majesty in Council that its continuance is unnecessary or inexpedient in view of the provisions of the said Act :

(iv) nothing in the said sections shall be construed as continuing any temporary Act in force beyond the date fixed for its expiration."

5. *See* foot-note remark under section 292.

6. *See* the Government of India (Adaption of Indian laws) Order, 1937 [18-3-1937].

bringing the provisions of that law into accord with the provisions of this Act and, in particular, into accord with the provisions thereof which reconstitute under different names governments and authorities in India and prescribe the distribution of legislative and executive powers between the Federation and the Provinces:

Provided that no such law as aforesaid shall be made applicable to any Federated State by an Order in Council made under this section.

In this section the expression "law" does not include an Act of Parliament, but includes any ordinance, order, bye-law, rule or regulation having in British India the force of law.

Foreign jurisdiction.

[55]**294.** (1) Neither the executive authority of the Federation nor the legislative power of the Federal Legislature shall extend to any area in a Federated State which His Majesty in signifying his acceptance of the Instrument of Accession of that State may declare to be an area therefore administered by or on behalf of His Majesty to which it is expedient that the provisions of this subsection should apply, and references in this Act to a Federated State shall not be construed as including references to any such area:

Provided that—

(*a*) a declaration shall not be made under this sub-section with respect to any area unless, before the execution by the Ruler of the Instrument of Accession, notice has been given to him of His Majesty's intention to make that declaration;

(*b*) if His Majesty with the assent of the Ruler of the State relinquishes his powers and jurisdiction in relation to any such area or any part of any such area, the fore-going provisions of this sub-section shall cease to apply to that area or part, and the executive authority of the Federation and the legislative power of the Federal Legislature shall extend thereto in respect of such matters and subject to such limitations as may be specified in a supplementary Instrument of Accession for the State.

Nothing in this sub-section applies to any area if it appears to His Majesty that jurisdiction to administer the area was granted to him solely in connection with a railway.

(2) Subject as aforesaid and to the following provisions of this section, if, after the accession of a State becomes effective, power or jurisdiction therein with respect to any matter is, by virtue of the Instrument of Accession of the State, exercisable, either generally or subject to limits, by the Federation, the Federal Legislature, the Federal Court, the Federal Railway Authority, or a Court or an authority exercising the power or jurisdiction by virtue of an Act of the Federal Legislature, or is, by virtue of an agreement made under Part VI of this Act in relation to the administration of a law of the Federal Legislature, exercisable, either generally or subject to limits, by the Ruler or his officers, then any power or jurisdiction formerly exercisable on His Majesty's behalf in that State, whether by virtue of the Foreign Jurisdiction Act, 1890, or otherwise, shall not be exercisable in that State with respect to that matter or, as the case may be, with respect to that matter within those limits.

(3) So much of any law as by virtue of any power exercised by or on behalf of His Majesty to make laws in a State is in force in a Federated State immediately before the accession of the State becomes effective and might by virtue of the Instrument of Accession of the State be re-

enacted for that State by the Federal Legislature, shall continue in force and be deemed for the purposes of this Act to be a Federal law so re-enacted.

Provided that any such law may be repealed or amended by Act of the Federal Legislature and unless continued in force by such an Act shall cease to have effect on the expiration of five years from the date when the accession of the State becomes effective.

(4) Subject as aforesaid, the powers and jurisdiction exercisable by or on behalf of His Majesty before the commencement of Part III of this Act in Indian States shall continue to be exercisable, and any Order in Council with respect to the said powers or jurisdiction made under the Foreign Jurisdiction Act, 1890, or otherwise, and all delegations, rules and orders made under any such Order, shall continue to be of full force and effect until the Order is amended or revoked by a subsequent Order.

Provided that nothing in this sub-section shall be construed as prohibiting His Majesty from relinquising any power or jurisdiction in any Indian State.

(5) An Order in Council made by virtue and in exercise of the powers by the Foreign Jurisdiction Act, 1890, or otherwise in His Majesty vested, empowering any person to make rules and orders in respect of courts of administrative authorities acting for any territory shall not be invalid by reason only that it confers, or delegates powers to confer, on courts or administrative authorities power to sit or act outside the territory in respect of which they have jurisdiction or functions or that it confers, or delegates power to confer, appellate jurisdiction or functions on corts or administrative authorities sitting or acting outside the territory.

(6) In the Foreign Jurisdiction Act, 1890, the expression "a British Court in a foreign country" shall in relation to any part of India outside British India, include any person duly exercising on behalf of His Majesty any jurisdiction, civil or criminal, original or appellate, whether by virtue of an Order in Council or not, and for the purposes of section nine of that Act the Federal Court shall, as respects appellate jurisdiction in cases tried by a British Court in a Federated State, be deemed to be a Court held in a British Possession or under the authority of His Majesty.

(7) Nothing in this Act shall be construed as limiting any right of His Majesty to determine by what courts British subjects and subjects of foreign countries shall be tried in respect of offences committed in Indian States.

(8) Nothing in this section affects the provisions of this Act with respect to Berar.

Provisions as to death sentences.

295. [6a][(1) Where any person has been sentenced to death in a Province, the Governor-General in his decision shall have all such powers of suspension, remission or commutation of sentence as were vested in the Governor-General in Council immediately before the commencement of Part III of this Act, but save as aforesaid no authority in India outside a Province shall have any power to suspend, remit or commute the sentence of any person convicted in the Province.

Provided that nothing in this sub-section affects any power of any officer of His Majesty's forces to suspend, remit or commute a sentence passed by a court-martial.]

6a. Omitted by the India (Provisional Constitution) Order, 1947.

(2) Nothing in this Act shall derogate from the right of His Majesty, or of the Governor-General, if any, such right is delegated to him by His Majesty, to grant pardons, reprieves, respites or remissions of punishment.

Courts of Appeal in revenue matters.

296. (1) No member of the Federal or a Provincial Legislature shall be a member of any tribunal in [6b][British India] having jurisdiction to entertain appeals or revise decisions in revenue cases.

(2) If in any Province any such jurisdiction as aforesaid was, immediately before the commencement of Part III of this Act, vested in the Local Government, the Governor shall constitute a tribunal, consisting of such person or persons as he, exercising his individual judgment, may think fit, to exercise the same jurisdiction until other provision in that behalf is made by Act of the Provincial Legislature.

(3) There shall be paid to the members of any tribunal constituted under the last preceding sub-section, such salaries and allowances as the Governor exercising his individual judgment may determine, and those salaries and allowances shall be charged on the revenues of the Province.

Prohibition of certain restrictions on internal trade.

297. (1) No Provincial Legislature or Government shall.

(*a*) by virtue of the entry in the Provincial Legislative List relating to trade and commerce within the Province, or the entry in that list relating to the production, supply, and distribution of commodities, have power to pass any law or take any executive action prohibiting or restricting the entry into, or export from, the Province of goods of any class or description; or

(*b*) by virtue of anything in this Act have power to impose any tax, cess, toll, or due which, as between goods manufactured, or produced in the Province and similar goods not so manufactured or produced, discriminates in favour of the former, or which, in the case of goods manufactured or produced outside that Province, discriminates between goods manufactured or produced in another locality.

(2) Any law passed in contravention of this section shall, to the extent of the contravention, be invalid.

Persons not to be subjected to disability by reason of race, religion etc.

298. (1) No subject of His Majesty domiciled in India shall on grounds only of religion, place of birth, descent, colour or any of them be ineligible for office under the Crown in India, or be prohibited on any such grounds from acquiring, holding or disposing of property or carrying on any occupation, trade, business or profession in [6a][British India].

(2) Nothing in this section shall affect the operation of any law which—

[7][(*a*) prohibits, either absolutely or subject to exceptions, dispositions of agricultural land situate in any particular area

6b. Substituted, by *ibid.*, by the words—
'a Governor's or Chief Commissioner's Province'.

7. *Substituted* by the India and Burma (Temporary and Miscellaneous Provisions) Act, 1942 (5 and 6 Geo. 6 Ch. 31), S. 4 (*retrospectively*).

and owned by a person belonging to some class recognised by the law as being a class of persons engaged in or connected with agriculture in that area or as being an aboriginal tribe, in favour of or for the benefit of any person not belonging to that class.]

(*b*) recognises the existence of some right, privilege or disability attaching to members of a community by virtue of some personal law or custom having the force of law.

[8a][(3) Nothing in this section shall be construed as derogating from the special responsibility of the Governor-General or of a Governor for the safeguarding of the legitimate interests of minorities.]

[8][(4) In paragraph (*a*) of sub-section (2) of this section, 'agriculcultural land' in relation to any area where there is in force immediately before the commencement of Part III of this Act any law the operation of which is to any extent saved by the said paragraph (*a*), includes all such property any rights in or over property as are included in the expression 'land' as defined for the purposes of that law as then in force.]

Compulsory acquisition of land, etc.

299. (1) No person shall be deprived of his property in [82][British India] save by authority of law.

(2) Neither the Federal or a Provincial Legislature shall have power to make any law authorising the compulsory acquisition for public purposes of any land, or any commercial or industrial undertaking, or any interest in, or in any company owning, any commercial or industrial undertaking, unless the law provides for the payment of compensation for the property acquired and either fixes the amount of the compensation, or specifies the principles on which, and the manner in which, it is to be determined.

(3) No Bill or amendment making provision for the transference to public ownership of any land or for the extinguishment or modification of rights therein, including rights or privileges in respect of land revenue, shall be introduced or moved in [83][either Chamber of] the Federal Legislature without the previous sanction of the Governor-General in his discretion, or in a Chamber of a Provincial Legislature without the previous sanction of the Governor in his discretion.

(4) Nothing in this section shall affect the provisions of any law in force at the date of the passing of this Act

(5) In this section "land" includes immovable property of every kind and any rights in or over such property, and "undertaking" includes part of an undertaking.

Protection for certain rights, privileges, and pensions

[83]**300.** (1) The executive authority of the Federation or of a Province shall not be exercised, save on an order of the Governor-General or Governor, as the case may be, in the exercise of his individual judgment, so as to derogate from any grant or confirmation of title of or to land, or of or to any right or privilege in respect of land or land revenue, being a grant or confirmation made before the first day of January, one thousand eight hundred and seventy, or made on or after that date for services rendered.

(2) No pension granted or customarily payable before the commence-

8. *Added*, by *ibid* (*retrospectively*).
8a. Omitted, by the India (Provisional Constitution) Order, 1947.

ment of Part III of this Act by the Governor-General in Council or any Local Government on political considerations or compassionate grounds shall be discontinued or reduced, otherwise than in accordance with any grant or order regulating the payment thereof, save on an order of the Governor-General in the exercise of his individual judgment or, as the case may be, of the Governor in the exercise of his individual judgment, and any sum required for the payment of any such pension shall be charged on the revenues of the Federation or, as the case may be, the Province.

(3) Nothing in this section affects any remedy for a breach of any condition on which a grant was made.

Repeal of S. 18 of 21 Geo. 3. c. 70, and S 12 of 37 Geo. 3. c. 142.

301. Section eighteen of the East India Company Act, 1780, and section twelve of the East India Act, 1797 (being obsolete enactments containing savings for native law and custom) are hereby repealed.

High Commissioner.

High Commissioner for India.

[a]**302.** (1) There shall be a High Commissioner for India in the United Kingdom who shall be appointed, and whose salary and conditions of service shall be prescribed, by the Governor-General, exercising his individual judgment.

(2) The High Commissioner shall perform on behalf of the Federation such functions in connection with the business of the Federation, and, in particular, in relation to the making of contracts as the Governor-General may from time to time direct.

(3) The High Commissioner may, with the approval of the Governor-General and on such terms as may be agreed, undertake to perform on behalf of a Province or Federated State, or on behalf of Burma, functions similar to those which he performs on behalf of the Federation.

General Provisions.

Provisions as to Sheriff of Calcutta.

303. (1) The Sheriff of Calcutta shall be appointed annually by the Governor of Bengal from a panel of three persons to be nominated on the occasion of each vacancy by the High Court in Calcutta.

(2) The Sheriff shall hold office during the pleasure of the Governor and shall be entitled to such remuneration as the Governor may determine and no other remuneration.

[a][(3) In exercising his powers with respect to the appointment and dismissal of the Sheriff and with respect to the determination of his remuneration, the Governor shall exercise his individual judgment].

Persons acting as Governor-General or Governor.

304. Any person appointed by His Majesty to act as Governor-General or as the Governor of a Province during the absence of the Governor-General or the Governor from India, or during any period during which the Governor-General or the Governor is for any reason unable to perform the duties of his office shall during, and in respect of, the period while he is so acting have all the powers and immunities, and be subject to all the duties of, the Governor-General or Governor, as the case may be, and, if he holds any other office, shall not act therein or be entitled to the salary and allowances appertaining thereto while he is acting as Governor-General or Governor.

Secretarial staff of Governor-General and Governor.

305. (1) The Governor-General and every Governor shall have his own secretarial staff to be appointed by him in his discretion.

(2) The salaries and allowances of persons so appointed and the office accommodation and other facilities to be provided for them shall be such as the Governor-General or, as the case may be the Governor may in his discretion determine, and the said salaries and allowances and the expenses incurred in providing the said accommodation and facilities shall be charged on the revenues of the Federation or, as the case may be, the Province.

Provisions as to pensions of home civil servants appointed to offices in India.

[9][**305A.** (1) Where a civil servant, as defined by section twelve of the Superannuation Act, 1887 (50 and 51 Vict. c 67), is appointed by His Majesty or by the Governor-General in his discretion to any office under the Crown in India, the Secretary of State may direct that his service in that office shall qualify for the grant of a pension or gratuity as if it were service rendered in the office held by him as a civil servant immediately before his appointment to service in India and there shall be paid to, or in respect of, him out of the revenues of the Federation, and shall be charged on those revenues, in respect of his service, in that office in India a pension or gratuity calculated in accordance with the Superannuation Acts, 1834 to 1935, and the orders, rules and regulations made thereunder, but on the basis of the salary of the office last held by him as a civil servant before his appointment to service in India:

Provided that nothing in the said Acts, orders, rules or regulations shall operate to prevent the grant of a pension to him with effect from the date on which he may relinquish office in India, notwithstanding that at that date he may not have attained the age of sixty.

(2) No such direction as aforesaid shall be given in relation to service in any office if the service of the person in question in that office would qualify for the grant of a pension without any such direction.

(3) This section shall apply to appointments made before the passing of this Act as well as to appointments made thereafter, and in relation to appointments made before the commencement of Part III of this Act the reference to the Secretary of State shall be construed as a reference to the Secretary of State in Council.]

Protection of Governor-General, Governor or Secretary of State.

306. (1) No proceedings whatsoever shall lie in, and as process whatsoever shall issue from, any court in India against the Governor-General, [9a]against the Governor of a Province, [8a][or against the Secretary of State], whether in a personal capacity or otherwise, and, except with the sanction of [9b][His Majesty in Council] no proceedings whatsoever, shall lie in any court in India against any person who has been the Governor-General, [9c]the Governor of Province, or the Secretary of State in respect of anything done or omitted to be done by any of them during his term of office in performance or purported performance of the duties thereof.

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9. *Inserted* by the India and Burma (Miscellaneous Amendments) Act, 1940 (3 and 4 Geo. 6, Ch. 5), S. 12, and *omitted* by the India (Provisional Constitution) Order, 1947.

9a. The word 'or' inserted by the India (Provisional Constitution) Order, 1947.

9b. Substituted, by *ibid.*, the word 'Governor-General'.

9c. Inserted, by *ibid.*, the words—

"His Majesty's Representative for the exercise of the functions of the Crown in its relations with India States".

Provided that nothing in this section shall be construed as restricting the right of any person to bring against the Federation[9d], a Province, [9e][or the Secretary of State] such proceedings as are mentioned in chapter III of Part VII of this Act.

(2) The provisions of the preceding sub-section shall apply in relation to His Majesty's Representative for the exercise of the functions of the Crown in its relations with Indian States as they apply in relation to the Governor-General.

Removal of certain disqualifications on the occasion of the first elections to Legislature.

[9c]**307.** For the purposes 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, as a minister in a Province;

(*b*) an office which is not a whole time office remunerated either by salary or by fees.

Procedure as respects proposals for amendment of certain provisions of Act and Orders in Council.

[9e]**308.** (1) Subject to the provisions of this section, if the Federal Legislature or any Provincial Legislature, on motions proposed in each Chamber by a minister on behalf of the council of ministers, pass a resolution recommending any such amendment of this Act or of an Order in Council made thereunder as is hereinafter mentioned, and on motion proposed in like manner, present to the Governor-General or, as the case may be, to the Governor an address for submission to His Majesty praying that His Majesty may be pleased to communicate the resolution to Parliament, the Secretary of State shall, within six months after the resolution is so communicated, cause to be laid before both Houses of Parliament a statement of any action which it may be proposed to take thereon.

The Governor-General or the Governor, as the case may be, when forwarding any such resolution and address to the Secretary of State shall transmit therewith a statement of his opinion as to the proposed amendment and, in particular, as to the effect which it would have on the interests of any minority, together with a report as to the views of any minority likely to be affected by the proposed amendment and as to whether a majority of the representatives of that minority in the Federal, or, as the case may be, the Provincial Legilsature support the proposal, and the Secretary of State shall cause such statement and report to be laid before Parliament.

In performing his duties under this sub-section the Governor-General or the Governor, as the case may be, shall act in his discretion.

(2) The amendments referred to in the preceding sub-section are—

(*a*) any amendment of the provisions relating to the size or composition of the Chambers of the Federal Legislature, or to the method of choosing or the qualifications of members of that Legislature, not being an amendment which would vary the proportion between the number of seats in the Council of State and the number of seats in the Federal Assembly, or would vary, either as regards the Council of State or the

9d. Inserted, by *ibid.*, the word 'or'.
9e. Omitted, by *ibid.*

Federal Assembly, the proportion between the number of seats allotted to British India and the number of seats allotted to Indian States;

(*b*) any amendment of the provisions relating to the number of Chambers in a Provincial Legislature or the size or composition of the Chamber, or of either Chamber of a Provincial Legislature, or to the method of choosing or the qualifications of members of a Provincial Legislature;

(*c*) any amendment providing that, in the case of women, literacy shall be substituted for any higher educational standard for the time being required as a qualification for the franchise, or providing that women, if duly qualified, shall be entered on electoral rolls without any application being made for the purpose by them or on their behalf; and

(*d*) any other amendment of the provisions relating to the qualifications entitling persons to be registered as voters for the purposes of elections.

(3) So far as regards any such amendment as is mentioned in paragraph (*c*) of the last preceding sub-section, the provisions of subsection (1) of this section shall apply to a resolution of a Provincial Legislature whenever passed, but, save as aforesaid, those provisions shall not apply to any resolution passed before the expiration of ten years, in the case of a resolution of the Federal Legislature, from the establishment of the Federation, and in the case of a resolution of a Provincial Legislature, from the commencement of Part III of this Act.

(4) His Majesty in Council[10] may at any time before or after the commencement of Part III of this Act, whether the ten years referred to in the last preceding sub-section have elapsed, or not, and whether any such address as is mentioned in the section has been submitted to His Majesty or not, make in the provisions of this Act any such amendment as is referred to in sub-section (2) of this section;

Provided that—

(*i*) If no such address has been submitted to His Majesty, then, before the draft of any Order which it is proposed to submit to His Majesty is laid before Parliament, the Secretary of State shall, unless it appears to him that the proposed amendment is of a minor or drafting nature, take such steps as His Majesty may direct for ascertaining the views of the Governments and Legislatures in India who would be affected by the proposed amendment and the views of any minority likely to be so affected, and whether a majority of the representatives of that minority in the Federal or as the case may be, the Provincial Legislature support the proposal;

(*ii*) the provisions of Part II of the First Schedule to this Act shall be amended without the consent of the Ruler of any State which will be affected by the amendment.

Orders in Council.

[9e]**309.** (1) Any power[11] conferred by this Act on His Mtjesty in Council shall be exercisable only by Order in Council, and subject as hereinafter provided, the

10. *See* the Government of India (Provincial Legislative Assemblies) Order, 1936 [30-4-1936]; and the Government of India (Federal Legislature Amendment) Order, 1936 [18-12-1936].

11. For like power conferred on Governor-General, *see* the India and Burma (Emergency Provisions) Act, 1940 (3 and 4 Geo. 6, Ch. 33).

Secretary of State shall lay before Parliament the draft of any Order which it is proposed to recommend His Majesty to make in Council under any provision of this Act, and no further proceedings shall be taken in relation thereto except in pursuance of an address presented to His Majesty by both Houses of Parliament praying that the Order may be made either in the form of the draft, or with such amendments as may have been agreed to by resolutions of both Houses:

Provided that, if at any time when Parliament is dissolved or prorogued, or when both Houses of Parliament are adjourned for more than fourteen days, the Secretary of State is of opinion that on account of urgency an Order in Council should be made, under this Act forthwith, it shall not be necessary for a draft of the Order to be laid before Parliament, but the Order shall cease to have effect at the expiration of twenty-eight days from the date on which the Commons House first sits after the making of the Order unless within that period resolutions approving the making of the Order are passed by both Houses of Parliament.

(2) Subject to any express provision of this Act, His Majesty in Council may by a subsequent Order, made in accordance with the provisions of the preceding sub-section, revoke or vary any Order previously made by him in Council under this Act.

(3) Nothing in this section applies to any Order of His Majesty in Council made in connection with any appeal to His Majesty in Council, or to any order of His Majesty in Council sanctioning the taking of proceedings against a person who has been the Governor-General, His Majesty's Representative for the exercise of the functions of the Crown in its relations with Indian States, the Governor of a Province or the Secretary of State.

Power of His Majesty in Council to remove difficulties.

[11a][11b]**310.** (1) Whereas difficulties may arise in relation to the transition from the provisions of the Government of India Act to the provisions of this Act, and in relation to the transition from the provisions of Part XIII of this Act to the provisions of Part II of this Act:

And whereas the nature of those difficulties, and of the provision which should be made for meeting them, cannot at the date of the passing of this Act be fully foreseen:

Now therefore, for the purpose of facilitating each of the said transitions His Majesty may by Order in Council[12]—

(*a*) direct that this Act and any provisions of the Government of India Act still in force shall, during such limited period as may be specified in the Order, have effect subject to such adaptations and modifications as may be so specified;

(*b*) make, with respect to a limited period so specified such temporary provision as he thinks fit for ensuring that, while the transaction is being effected and during the period immediately

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11a. Omitted, by the India (Provisional Constitution) Order, 1947.
11b. Substituted, by *ibid.*, by the words 'the Governor-General'.
11c. Substituted, by *ibid.*, by the words—establishment of the Dominion'.
11d. Inserted, by *ibid.*, the words—'which were'.
12. *See* the following Orders in Council :—
(1) the Government of India (Commencement and Transitory Provisions) Order, 1936 ;
(2) Do. (No. 2) Order, 1936 ;
(3) the Government of India (Provincial Legislatures) (Miscellaneous Provisions) Order, 1936 ;
(4) India and Burma (Transitory Provisions) Order, 1937 ;
(5) Do. (Taxation) Order, 1937.

following it, there are available to all governments in India and Burma sufficient revenues to enable the business of those governments to be carried in; and

(*c*) make such other temporary provisions for the purpose of removing any such difficulties as aforesaid as may be specified in the Order.

(2) No order in Council in relation to the transition from the provisions of Part XIII of this Act to the provisions of Part II of this Act shall be made under this section after the expiration of six months from the establishment of the Federation, and no other Order in Council shall be made under this section after the expiration of six months from the commencement of Part III of this Act.

Interpretation.

311. [13a](1) In this Act and, unless the context otherwise requires, in any other Act the following expressions have the meanings hereby respectively assigned to them that is to say.

Interpretation, etc.

"British India" means all territories for the time being comprised within the Governors, Provinces and the Chief Commissioners' Province.

"India" means British India together with all territories of any Indian Ruler under the suzerainty of His Majesty, all territories under the suzerainty of such an Indian Ruler, the tribal areas, and, any other territories which His Majesty in Council may, from time to time, after ascertaining the views of the Federal Government and the Federal Legislature, declare to be part of India.

"Burma" includes (subject to the excercise by His Majesty of any powers vested in him with respect to the alteration of the boundaries thereof) all territories which were immediately before the commencement of Part III of this Act comprised in India being territories lying to the east of Bengal, the State of Manipur, Assam, and any tribal areas connected with Assam;

"British Burma" means so much of Burma as belongs to His Majesty;

"Tribal areas" means the areas along the frontiers of India or in Baluchistan which are not part of British India or of Burma or of any Indian State or of any foreign State:

[13]"Indian State" means any territory, not being part of British India, which His Majesty recognises as being such a State, whether described as a State, an Estate, a Jagir or otherwise;]

"Ruler" in relation to a State means the Prince, Chief or other person recognised by His Majesty as the Ruler of the State].

(2) In this Act, unless the context otherwise require, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

"agricultural income" means agricultural income as defined for the purposes of the enactments relating to Indian income tax;

"borrow" includes the raising of money by the grant of annuities and "loan" shall be construed accordingly;

"chief justice" includes in relation to a High Court a chief judge or judicial commissioner and "judge" includes an additional judicial commissioner;

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13. *Substituted* by the India and Burma (Miscellaneous Amendments) Act, 1940 (3 and 4 Geo. 6, ch. 5), S. 6.

[14]["corporation tax" means any tax on income, so far as that tax is payable by companies and is a tax in the case of which the following conditions are fulfilled:—

(*a*) that it is not chargeable in respect of agricultural income;

(*b*) that no deduction in respect of the tax paid by companies is, by any enactments which may apply to the tax, authorised to be made from dividends payable by the companies to individuals;

(*c*) that no provision exists for taking the tax so paid into account in computing for the purposes of Indian income-tax the total income of individuals receiving such dividends, or in computing the Indian income-tax payable by, or refundable to, such individuals.]

"corresponding Province" means in case of doubt such Province as may be determined by [11b][His Majesty in Council] to be the corresponding Province for the particular purpose in question;

"debt" includes any liability in respect of any obligation to repay capital sums by way of annuities and any liability under any guarantee, and "debt charges" shall be construed accordingly;

[15]["Estate duty" means a duty to be assessed on or by reference to the principal value, ascertained in accordance with such rules as may be prescribed by or under the Federal or Provincial Laws relating to the duty, of all property passing upon death or deemed, under the provisions of the said laws, so to pass"];

"existing Indian law" means any law, ordinance, order, bye-law, rule or regulation passed or made before the [11c][commencement of Part III of the Act] by any legislature, authority or person in any territories[11d] for the time being comprised in British India, being a legislature, authority or person having power to make such a law, ordinance, order, by-law, rule or regulation:

"goods" including all materials, commodities, and articles:

"guarantee" includes any obligation undertaken before the commencement of Part III of this Act to make payments in the event of the profits of an undertaking falling short of a specified amount;

"High Court" does not, except where it is expressly so provided, include a High Court in a Federated State;

"Local Government" means any such Governor in Council, Governor acting with ministers, Lieutenant-Governor in Council, Lieutenant Governor or Chief Commissioner as was at the relevant time a Local Government for the purposes of the Government of India Act or any Act repealed by that Act, but does not, save where the context otherwise requires, include any Local Government in Burma or Aden;

"pension" in relation to persons in or formerly in the service of the Crown [11a][in India, Burma or Aden] means a pension, whether contributory or not of any kind whatsoever payable to or in respect of any such person, and includes retired pay so payable, a gratuity so payable, and any sum or sums so payable by way of the return, with or without interest thereon or any other addition thereto, of subscription to a provident fund;

"pleader" includes advocate;

"Provincial Act" and "Provincial law" mean, subject to the provisions

14. *Substituted* by *ibid.*, S. 1.
15. *Inserted* by the India (Estate Duty) Act, 1945 (8 and 9 Geo. 6, ch. 7), S. 1 (*3*).

of this section, an Act passed or Law made by a Provincial Legislature established under this Act;

"public notification" means a notification in the Gazette of India or, as the case may be, the official Gazette of a Province;

"securities" includes stock;

"taxation" includes the imposition of any tax or impost whether general or local or special, and "tax" shall be construed accordingly;

[16]["tax on income" a tax in the nature of an excess profits tax;]

"railway" includes a tramway not wholly within a municipal area;

"federal railway" does not include an Indian State railway but, save as aforesaid, includes any railway not being a minor railway;

"Indian State railway" means a railway owned by a State and either operated by the State, or operated on behalf of the State otherwise than in accordance with a contract made with the State by or on behalf of the Secretary of State in Council, the Federal Government[16a] the Federal Railway Authority] or any company operating a federal railway;

"minor railway" means a railway which is wholly situate in one unit and does not form a continuous line of communication with a federal railway, whether of the same gauge or not; and

"unit" means a Governor's Province, a Chief Commissioner's Province or a Federated State.

[11a][(3) No Indian State shall, for the purpose of any reference in this Act to Federated States, be deemed to have become a Federated State until the establishment of the Federaton.

(4) In paragraph (3) of section eighteen the Interpretation Act, 1897 (which paragraph defines the expression "colony") for the words "exclusive of the British Islands and of British India" there shall be substituted the words "exclusive of the British Islands and of British India and of British Burma."

(5) Any Act of Parliament containing references to India or any part thereof, to countries other than or situate outside India or other than or situate outside British India, to His Majesty's dominions, to a British possession, to the Secretary of State in Council, to the Governor-General in Council, to a Governor in Council or to Legislatures, courts, or authorities in, or to matters relating to the government or administration of, India or British India shall have effect subject to such adaptations and modifications as His Majesty in Council may direct[18], being adaptations and modifications which appear to His Majesty in Council to be necessary or expedient in consequence of the provisions of the Act or the Government of Burma Act, 1935.

Any power of any legislature under this Act to repeal or amend any Act adapted or modified by an Order in Council under this sub-section shall extend to the repeal or amendment of that Order, and any reference in this Act to an Act of Parliament shall be construed as including a reference to any such Order.]

16. *Inserted* by the India and Burma (Miscellaneous Amendments) Act, 1940 (3 and 4 Geo. 6, ch. 5), S. 1.
16a. Omitted, by the India (Provisional Constitution) Order, 1947.
17. (1889) 52 and 53 vict., c. 63.
18. *See* the Aden Colony Order, 1936 and the Government of India (Adaptation of Acts of Parliament) Order, 1937.

(6) Any reference in this Act to [19][Federal] Acts or laws or Provincial Acts or laws, or to Acts or laws of the Federal or a Provincial Legislature, shall be construed as including a reference to an ordinance made by the Governor-Gentral [162][or a Governor-General's Act] or, as the case may be, to an ordinance made by a Governor [162][or a Governor's Act].

(7) References in this Act to the taking of an oath include references to the making of an affirmation.

PART XIII[1]

Transitional Provisions.

Operation of Part XIII.

[2]**312.** The provisions of this Part of this Act shall apply with respect to the period elapsing between the commencement of Part III of this Act and the establishment of the Federation.

Executive Government.

[2]**313.** (*1*) Subject to the provisions of this Act for the time being in force, such executive authority as is hereinafter mentioned shall be exercised on behalf of His Majesty by the Governor-General in Council, either directly or through officers subordinate to him, but nothing in this section shall prevent the Indian Legislature from conferring functions upon subordinate authorities, or be deemed to transfer to the Governor-General in Council any functions conferred by any existing Indian law on any court, judge or officer, or on any local or other authority.

(*2*) Subject to the provisions of this Act for the time being in force, the said executive authority extends—

(*a*) to the matters with respect to which the Indian Legislature has under the said provisions, power to make laws;

(b) to the raising in British India on behalf of His Majesty of naval, military or air forces, and to the governance of His Majesty's forces borne on the Indian establishment;

(*c*) to the exercise of such rights, authority and jurisdiction as are exercisable by His Majesty by treaty, grant, usage, sufferance or otherwise in and in relation to the tribal areas;

Provided that—

(i) the said authority does not, save as expressly provided in the provisions of this Act for the time being in force, extend in any Province to matters with respect to which the Provincial Legislature has power to make laws;

(ii) the said authority does not extend to the enlistment or enrolment in any force raised in British India of any person unless he is either a subject of His Majesty, or a native of India or of territories adjacent thereto, and

(iii) commissions in any such forces shall be granted by His Majesty, save in so far as he may be pleased to delegate that power by virtue of the provisions of Part I of this Act or otherwise.

(3) References in the provisions of this Act for the time being in force to the Governor-General and the Federal Government shall, except

19. Substituted, by the India (Provisional Constitution) Order, 1947, by the word 'Dominion'.

1. This part came into force on 1-4-1937: *see* the Government of India (Commencement and Transitory Provisions) Order, 1936, para. 3.

2. Omitted by the India (Provisional Constitution) Order, 1947.

as respects matters with respects to which the Governor-General is required by the said provisions to act in his discretion, be construed as references to the Governor-General in Council, and any reference to the Federation, except where the reference is to the establishment of the Federation, shall be construed as a reference to British India, the Governor-General in Council, or the Governor-General, as the circumstances and the context may require:

Provided that—

(*a*) any reference to the revenues of the Federation shall be construed as a reference to the revenue of the Governor-General in Council;

(*b*) the revenues of the Governor-General in Council shall, subject to the provisions of chapter I of Part VII of this Act with respect to the assignment of the whole or part of the net proceeds of certain taxes and duties to Provinces and to the provisions of this Act with respect to the Federal Railway Auhority (so far as any such provisions are for the time being in force), include all revenues and public moneys raised or received either by the Governor-General in Council or by the Governor-General;

(c) the expenses of the Governor-General in discharging his functions as respects matters with respect to which he is required by the provisions of this Act for the time being in force to act in his discretion shall be defrayed out of the revenues of the Governor-General in Council.

(*4*) Any requirement in this Act that the Governor-General shall exercise his individual judgment with respect to any matter shall not come into force, until the establishment of the Federation, but, notwithstanding that Part II of this Act has not come into operation, the following provisions of this Act, that is to say—

(*a*) the provisions requiring the prior sanction of the Governor-General for certain legislative proposals;

(*b*) the provisions relating to broadcasting;

(*c*) the provisions relating to directions to, and principles to be observed by, the Federal Railway Authority; and

(*d*) the provisions relating to civil services to be recruited by the Secretary of State,

shall have effect in relation to defence, ecclesiastical affairs, external affairs and the tribal areas as they have effect in relation to matters or functions with respect to, or in the exercise of which the Governor-General is by the provisions of this Act for the time being in force required to act in his discretion, and any reference in any of the provisions of this Act for the time being in force to the special responsibilities of the Governor-General shall be construed as a reference to the special responsibilities which he will have when Part II of this Act comes into operation.

(5) Nothing in this section shall be construed as conferring on the Governor-General in Council any functions connected with the exercise of the functions of the Crown in its relations with Indian States.

Control of the Secretary of State.

[2]**314.** (*1*) The Governor-General in Council and the Governor-General, both as respects matters with respect to which he is required by or under this Act to act in his discretion and as respects other matters, shall be under the general control of, and comply with such particular directions, if any, as may from time to time be given by, the Secretary of State, but the validity of anything done by the Governor-General in Council or the

Governor-General shall not be called in question on the ground that it was done otherwise than in accordance with the provisions of this sub-section.

(*2*) The Secretary of State shall not give any direction to the Governor-General in Council with respect to any grant or appropriation of any part of the revenues of the Governor-General in Council except with the concurrence of his advisers.

(*3*) While this Part of this Act is in operation, the advisers of the Secretary of State shall not be more than twelve, nor less than [3][five], in number, and, notwithstanding anything in Part XI of this Act with respect to their term of office, on the establishment of the Federation such of the advisers as the Secretary of State may direct shall cease to hold office.

Sterling loans.

[2]**315.** (*1*) While this Part of this Act is in operation, no sterling loans shall be contracted by the Governor-General in Council, but in lieu thereof, if provision is made in that behalf by an East India Loans Act of the Parliament of the United Kingdom, the Secretary of State may, within such limits as may be prescribed by the Act, contract such loans on behalf of the Governor-General in Council.

(*2*) The Secretary of State shall not exercise any such powers of borrowing as are mentioned in this section unless at a meeting of the Secretary of State and his advisers the borrowing has been approved by a majority of the persons present.

(*3*) There shall be inserted—

(*a*) in paragraph (*d*) of sub-section (1) of section one of the Trustee Act, 1925, after the words on the revenues of India"; and

(*b*) at the end of sub-paragraph (*9*) of paragraph (*a*) of section ten of the Trusts (Scotland) Act, 1921,

the words "or in any sterling loans raised by the Secretary of State on behalf of the Governor-General of India in Council under the provisions of Part XIII of the Government of India Act, 1935."

(*4*) No deduction in respect of taxes imposed by or under any existing Indian law or any law of the Indian, the Federal, or a Provincial Legislature shall be made, either before or after the establishment of the Federation, from any payment of principal or interest in respect of any loan contracted under this section.

(*5*) Any legal proceedings in respect of any loan raised under this section may, either before or after the establishment of the Federation, be brought in the United Kingdom, against the Secretary of State, but nothing in this section shall be construed as imposing any liability on the Exchequer of the United Kingdom.

Legislature.

[2]**316.** The powers conferred by the provisions of this Act for the time being in force on the Federal Legislature shall be exercisable by the Indian Legislature, and accordingly references in those provisions to the Federal Legislature and Federal Laws shall be construed as references to the Indian Legislature and laws of the Indian Legislature, and references in those provisions to Federal taxes shall be construed as references to taxes imposed by laws of the Indian Legislature:

3. *Substituted* by the India (Miscellaneous Provisions) Act, 1944 (7 & 8 Geo. 6, ch. 38), s. 3, for "eight".

Provided that nothing in this section shall empower the Indian Legislature to impose limits on the power of the Governor-General in Council to borrow money.

Continuance of certain provisions of Government of India Act.

[3]317. '(1) The provisions of the Government of India Act set out, with amendments * [3]* * *, in the Ninth Schedule to this Act (being certain of the provisions of that Act relating to the Governor-General, the Commander-in-Chief, the Governor-General's Executive Council and the Indian Legislature and provisions supplemental to those provisions) shall, subject to those amendments, continue to have effect notwithstanding the repeal of that Act by this Act:

Provided that nothing in the said provisions shall affect the provisions of the last but one preceding section.

(2) In the said provisions, the expression "this Act" means the said provisions.

(3) The substitution in the said provisions of references to the Secretary of State for references to the Secretary of State in Council shall not render invalid anything done thereunder by the Secretary of State in Council before the commencement of Part III of this Act.

Provisions as to Federal Court and certain other Federal authorities.

[3]318. '(1) Notwithstanding that the Federation has not yet been established, the Federal Court and the Federal Public Service Commission and the Federal Railway Authority shall come into existence and be known by those names, and shall perform in relation to British India the like functions as they are by or under this Act to perform in relation to the Federation when established.

(2) Nothing in this section affects any power of His Majesty in Council to fix a date later than the commencement of Part III of this Act for the coming into operation, either generally or for particular purposes, of any of the provisions of this Act relating to the Federal Court, the Federal Public Service Commission or the Federal Railway Authority.

Rights and liabilities of Governor-General in Council and Governor-General to continue after establishment of Federation.

[3]319. '(1) Any rights acquired by, or liabilities incurred by or on behalf of, the Governor-General in Council or the Governor-General between the commencement of Part III of this Act and the establishment of the Federation shall, after the establishment of the Federation, be rights and liabilities of the Federation, and any legal proceedings pending at the establishment of the Federation by or against the Governor-General in Council or the Governor-General shall, after the establishment of the Federation, be continued by or against the Federation.

(2) The provisions of sub-section (1) of this section shall apply in relation to rights and liabilities of the Secretary of State in Council which have, by virtue of the provisions of this Act, become rights or liabilities of the Governor-General in Council as they apply in relation to the rights or liabilities of the Governor-General in Council as they apply in relation to the rights and liabilities therein mentioned.

3. The words "consequential on the provisions of this Act" were *repealed* by the India and Burma (Temporary and Miscellaneous Provisions) Act, 1942 (5 & 6 Geo. 6, ch. 39), s. 3(2).

PART XIV.

Commencement, Repeals, etc.

Commencement.

[1]320. (*1*) Part II of this Act shall come into force on such date as His Majesty may appoint by the Proclamation establishing the Federation and the date so appointed is the date referred to in this Act as the date of the establishment of the Federation.

(*2*) The remainder of this Act shall, subject to any express provision to the contrary, come into force on such date[2] as His Majesty in Council may appoint and the said date is the date referred to in this Act as the commencement of Part III of this Act.

(*3*) If it appears to His Majesty in Council that it will not be practicable or convenient that all the provisions of this Act which are under the forgoing provisions of this section to come into force on a date therein mentioned should come into operation simultaneously on that date, His Majesty in Council may, notwithstanding anything in this section, fix an earlier or a later date for the coming into operation, either generally or for particllar purposes, of any particular provisions of this Act.

Repeals.

321. The Government of India Act shall be repealed[3] and the other Acts mentioned in the Tenth Schedule to this Act shall also be repealed to the extent specified in the third column of that Schedule.

Provided that—

(*a*) nothing in this section shall affect the Preamble to the Government of India Act, 1919.[4]

(*b*) without prejudice to any other provisions of this Act, to the provisions of the Government of Burma Act, 1935[5], and to the provisions of the Interpretation Act, 1889[6], relating to the effect of repeals this repeal shall not affect any appointment made under any enactment so repealed to any office, and any such appointment shall have effect as if it were an appointment to the corresponding office under this Act or the Government of Burma Act, 1935.

SCHEDULES.

FIRST SCHEDULE.[1]

(Sections 5, 18, 308).

COMPOSITION OF THE FEDERAL LEGISLATURE

PART I.—REPRESENTATIVES OF BRITISH INDIA.

General Qualification for Membership.

1. A person shall not bt qualified to be chosen as a representative of British India to fill a seat in the Federal Legislature unless he—

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1 Omitted by the India (Provisional Constitution) Order, 1947.
2. Part III and certain provisions (other than those of Parts II and VIII, [except s. 181 (2)], Chapter I of Part IX, the eighth sch. and s. 232) came into force on 1-4-1937; *see* the Government of India (Commencement and Transitory Provisions) Order, 1936, para 3; *see* also paras 11 and 12.
3. *Except portion* of s. 67 (2), *see* Government of India (Commencement and Transitory Provisions) Order, 1936, para. 12. which has retained the said section in force till the establishment of the Federation.
4. (1919) 9 & 10 Geo. V, C 101.
5. (1935) 26 Geo. V & 1 Edw. VIII, C. 3.
6. (1889) 52 & 53 Vict., C. 63.
1. Omitted by the India (Provisional Constitution) Order, 1947.

(a) is a British subject, or the Ruler or a subject of as Indian State which has acceded to the Federation; and

(*b*) is, in the case of a seat in the Council of State, not less than thirty years of age and, in the cose of a seat in the Federal Assembly, not less than twenty-five years of age; and

(*c*) posses such, if any, of the other qualifications specified in, or prescribed under, this Part of this Schedule as may be appropriate in this case:

Provided that the Ruler or a subject of an Indian State which has not acceded to the Federation—

(i) shall not be disqualified under sub-paragraph (*a*) of this paragraph to fill a seat allocated to a Province if he would be eligible to be elected to the Legislative Assembly of that Province; and

(ii) in such cass as may be prescribed, shall not be disqualified under the said sub-paragraph (*a*) to fill a seat allocated to a Chief Commissioner's Province.

2. Upon the expiration of the term for which he is chosen to serve as a member of the Federal Legislature, a person, if otherwise duly qualified, shall be eligible to be chosen to serve for a further term.

The Council of State.

3. Of the one hundred and fifty-six seats in the Council of State to be filled by representatives of British India one hundred and fifty seats shall be allocated to the Governor's Provinces the Chief Commissioners' Provinces and the Anglo-Indian, European and Indian Christian communities in the manner shown in division (i) of the relevant Table of Seats appended to this Part of this Schedule and six seats shall be filled by persons chosen by the Governor-General in his discretion.

4. To each Governor's Province, Chief Commissioner's Province and community specified in the first column of division (i) of the Table there shall be allotted the number of seats specified in the second column opposite to that Province or community and of the seats so allotted to a Governor's Province or a Chief Commissioner's Province, the number specified in the third column shall be general seats, the number specified in the fourth column shall be seats for representatives of the scheduled castes, the number specified in the fifth column shall be Sikh seats, the number specified in the sixth column shall be Muhammadan seats, and the number specified in the seventh column shall be seats reserved for women.

5. A Governor's Province or a Chief Commissioner's Province, exclusive of any portion thereof which His Majesty in Council may deem unsuitable for inclusion in any constituency of any particular class, shall be divided into territorial constituencies—

(a) for the election of persons to fill the general seats, if any ;

(b) for the election of persons to fill the Sikh seats, if any ; and

(c) for the election of persons to fill the Muhammadan seats, if any,

or, if as respects any class of constituency it is so prescribed, may from one territorial constituency.

To each territorial constituency of any class one more seats of that class shall be assigned.

6. (1) No person shall be entitled to vote at an election to fill a Sikh seat or a Muhammadan seat in the Council of State unless he is a Sikh or a Muhammadan, as the case may be.

(2) No person who is, or is entitled to be, included in the electoral roll for a territorial constituency in any Province for the election of persons to fill a Sikh seat or a Muhammadan seat in the Council of State shall be entitled to vote at an election to fill a general seat therein allotted to that Province.

(3) No Anglo-Indian, European or Indian Christian shall be entitled to vote at an election to fill a general seat in the Council of State.

(4) Subject as aforesaid, the qualifications entitling persons to vote in territorial constituencies at elections of members of the Council of State shall be such as may be prescribed.

7. Nothing in the two last preceding paragraphs shall apply in relation to British Baluchistan, and a persons to fill the seat in the Council of State allotted to that Province shall be chosen in such manner as may be prescribed.

8. In any Province to which a seat to be filled by a representative of the scheduled castes is allotted, a person to fill that seat shall be chosen by the members of those castes who hold seats in the Chamber or, as the case may be, either Chamber of the Legislature of that Province.

9. In any Province to which a seat reserved for women is allotted, a woman to fill that shall be chosen by the persons, whether men or women, who hold seats in the Chamber or. as the case may be, the Chamber of the Legislature of that Province.

10. Persons to fill the seats alotted to the Anglo-Indian, European and Indian Christian communities shall be chosen by the members of Electoral Colleges consisting of such Anglo-Indians, Europeans and Indian Christians, as the case may be, as are members of the Legislative Council of any Governor's Province or of the Legislative Assembly of any Governor's Province.

The Rules regulating the conduct of elections by the European Electoral College shall be such as to secure that on any occasion where more than one seat fall to be filled by the College no two of the seats to be then filled shall be filled by persons who are normally resident in the same Province.

11. A person shall not be qualified to hold a seat in the Council of State unless—

(a) in the case of a seat allotted to a Governor's Province or a Chief Commissioner's Province, he is qualified to vote in a territorial constituency in the Province at an election of a member of the Council of State, or in the case of a seat allotted to British Baluchistan, possesses such qualifications as may be prescribed;

(b) in the case of a seat allotted to the Anglo-Indian, the European or the Indian Christian community, he possesses such qualifications as may be prescribed.

12. Subject to the provisions of the four next succeeding paragraphs, the term of office of a member of the Council of State shall be nine years :

Provided that a person chosen to fill a casual vacancy shall be chosen to serve only for the remainder of his predecessor's term of office.

13. Upon the first constitution of the Council of State persons shall be chosen to fill all the seats allotted to Governors' Provinces, Chief Commissioners' Provinces and communities, but, for the purpose of securing that in every third year one-third of the holders of such seats shall retire, one-third of the persons first chosen shall be chosen to serve for three years only, one-third shall be chosen to serve for six years only, and one-third shall be chosen to serve for nine years, and thereafter in every third year persons shall be chosen to fill for nine years the seats then becoming vacant in consequence of the provisions of this paragraph.

14. In the case of a Province specified in column one in division (ii) of the Table of Seats, the numbers specified as respects seats of different classes in columns two to six, in columns seven to eleven and in columns twelve to sixteen respectively shall be the numbers of the seats of the different classes to be filled upon the first constitution of the Council by members chosen to serve for three years only, by members chosen to serve for six years only, and by members chosen to serve for nine years.

15. The person chosen upon the first constitution of the Council to fill the Anglo-

Indian seat shall be chosen to serve for nine years; of the seven persons then chosen to fill the European seats, three shall be chosen to serve for three years only, one shall be chosen to serve for six years only and three shall be chosen to serve for nine years; and of the two persons then chosen to fill the Indian Christian seats, one shall be chosen to serve for three years only and one shall be chosen to serve for nine years.

16. Upon the first constitution of the Council of State two of the persons to be chosen by the Governor-General shall be chosen to serve for three years only, two shall be chosen to serve for six years only and two shall be chosen to serve for nine years.

The Federal Assembly.

17. The allocation of seats in the Federal Assembly other than seats allotted to Indian States, shall be as shown in the relevant Table of Seats appended to this Part of this Schedule.

18. To each Governor's Province and Chief Commissioner's Province specified in the first column of the Table there shall be allotted the number of seats specified in the second column opposite to that Povince, and of those seats—

(i) the number specified in the column shall be general seats, of which the number specified in the fourth column shall be reserved for members of the scheduled castes;

(ii) the numbers specified in the next columns shall be the numbers of seats to be filled respectively by persons chosen to represent (a) the Sikh community, (b) the Muhammadan community; (c) the Anglo-Indian community; (d) the European community,; (e) the Indian Christian community; (f) the interests of commerce and industry; (g) landholders; and (h) the interests of labour, and

(iii) the number specified in the thirteenth column shall be number of seats reserved to women.

There shall also be in the Federal Assembly four seats not allotted to any Province, of which three shall be seats to be filled by representatives of commerce and industry and one shall be a seat to be filled by a representative of labour.

19. Subject to the provisions of the next succeeding paragraph, persons to fill the Federal Assembly allotted to a Governor's Province as general seats or Muhammadan seats shall be chosen by electorates consisting of such of the members of the Legislative Assembly of the Province as hold therein general seats, Sikh seats or Muhammadan seats respectively, voting in the case of a general election in accordance with the principle of proportional representation by means of the single transferable vote:

Provided that in the North-West Frontier Province the holders of Sikh seats, and in any Province in which seats are reserved for representatives of backward areas or backward tribes the holders of those seats, shall for the purposes of this paragraph, be deemed to hold general seats.

20. The provisions of this paragraph shall have with respect to the general seats reserved in any Governor's Province for members of the scheduled castes:—

For the purposes of a general election of members of the Federal Assembly—

(a) there shall be primary electorate consisting of all persons who were successful candidates at the primary elections held, in accordance with the provisions of the Fifth Sehedule to this Act, on the occasion of the last general election of members of the Legislative Assembly of the Province for the purpose of selecting candidates for seats reserved for members of the scheduled casts;

(b) the members of the primary electorate so constituted shall be entitled to take part in a primary election held for the purpose of electing four condidates for each seat so reserved; and

(c) no person who is not so elected as a candidate shall be qualified to be chosen to fill such a seat.

Rules made under this Part of this Schedule shall make provisions as to the manner in which a casual vacancy occurring in a seat to which this paragraph applies is to be filled.

21. For the purpose of choosing persons to fill the women's seats in the Federal Assembly there shall be for British India an electoral college consisting of such women as are members of the Legislative Assembly of any Governor's Province, and the person to fill a women's seats allotted to any particular Province shall be chosen by the members of the college.

Rules regulating the conduct of elections by the women's electoral college shall be such as secure that, of the nine women's seats allotted to Provinces, at least two are held by Muhammadans and at least one by an Indian Christian.

22. For the purpose of choosing persons to fill the Anglo-Indian, European and Indian Christian seats in the Federal Assembly, there shall be for the British India three electoral colleges consisting respectively of such persons as hold an Anglo-Indian, a European or an Indian Christian seat in the Legislative Assembly of any Governor's Province, and the person to fill an Anglo-Indian, European or Indian Christian seat allotted to any particular Province shall be chosen by the members of the appropriate electoral college.

In choosing at a general election the persons to fill the Indian Christian seats allotted to the Province of Madras, the Indian Christian electoral college shall vote in accordance with the principle of proportional representation by means of the single transferable vote.

23. Persons to fill the seats in the Federal Assembly which are to be filled by representative of commerce and industry, landholders and representations of labour shall be chosen—

(a) in the case of a seat allotted to a Province which is to be filled by a representative of commerce and industry, by such chambers of commerce and similar associations voting in such manner as may be prescribed.

(*b*) in the case of a seat allotted to a Province which is to be filled by a lanholder, by such persons voting in such territorial constituencies and in such manner as may be prescribed;

(*c*) in the case of a seat allotted to a Province which is to be filled by a representative of labour, by such organisations, or in such constituencies, and in accordance with such manner of voting as may be prescribed.

(*d*) in the case of one of the non-provincial seats which are to be filled by representatives of commerce and industry, by such Associated Chambers of Commerce, in the case of another such seat by such Federated Chambers of Commerce and in the case of the third such seat by such commercial bodies in Northern India voting in each case in such manner as may be prescribed; and

(*e*) in the case of the non-provincial seat which is to be filled by a representative of labour, by such organisations voting in such manner as may be prescribed.

24. Persons to fill the seats in the Federal Assembly allotted to Chief Commissioners' Provinces as general seats or Muhammadan seats shall be chosen—

(*a*) in the case of Coorg, by the members of the Legislative Council; and

(*b*) in other cases in such manner as may be prescribed.

25. A person shall not be qualified to hold a seat in the Federal Assembly, unless—

(i) in the case of a general seat, a Sikh seat, a Muhammadan seat, an Anglo-Indian seat, a European seat, an Indian Christian seat or a woman's seat allotted to a Governor's Province or the Province of Coorg, he is qualified to hold seat of of the same class in the Legislative Assembly, or, in the case of Coorg, the Legislative Council, of that Province;

(ii) in the case of any other seat, he possesses such qualifications as may be prescribed.

General.

26. (1) In the foregoing provisions of this Schedule the following expressions have the meanings hereby assigned to them, that is to say:—

"a European" means a person whose father or any of whose other male progenitors in the male line is or was of European descent and who is not a native of India;

'an Anglo-Indian" means a person whose father or any of whose other male progenitors in the male line is or was of European descent but who is a native of India;

"an Indian Christian" means a person who professes any form of the Christian religion and is not a European or an Anglo-Indian;

"the scheduled castes" means such castes, races or tribes, or parts of or groups within castes, races or tribes being castes, races, tribes, parts or groups which appear to his Majesty in Council to correspond to the classes of persons for merely known as "the depressed classes", as His Majesty in Council may specify; and

"prescribed" means prescribed by his Majesty in Council or, so far as regards any matter which under this Act the Federal Legislature or the Governor-General are competent to regulate, prescribed by an Act of that Legislature or by a rule made under the next succeeding paragraph.

(2) In this paragraph the expression "native of India" has the same meaning as it had for the purposes of section six of the Government of India Act, 1870, and accordingly it includes any person born and domiciled within the dominions of His Majesty in India or Burma of parents habitually resident in India or Burma and not established there for temporary purposes only.

27. In so far as provision with respect to any matter is not made by this Act or by His Majesty in Council or after the constitution of the Federal Legislature, by Act of that Legislature (where the matter is one with respect to which that Legislature if competent to make laws), the Governor-General, exercising his individual judgment, may make rules for carrying into effect the foregoing provisions of this part of this Schedule and for securing the due constitution of the Council of State and the Federal Assembly and, in particular, but without prejudice to the generality of the foregoing words, with respect to—

(i) the notification of vacancies, including casual vacancies and the proceedings to be taken for filling vacancies;

(ii) the nomination of candidates;

(iii) the conduct of elections, including the application to elections of the principle of proportional representation by means of the single transferable vote, and the rules to regulate elections where certain of the seats to be filled are to be filled by persons to be chosen to serve for different terms, or are reserved for members of the scheduled castes;

(iv) the expenses of candidates at elections;

(v) corrupt practices and other offences at or in connection with elections;

(vi) the decision of doubts and disputes arising out of or in connection with the choice of persons to persons to fill seats in the Council of State or the Federal Assembly; and

(vii) the manner in which rules are to be carried into effect.

TABLE OF SEATS.

The Council of State.

Representatives of British India.

(i) *Allocation of seats.*

1 Province or Community.	2 Total seats	3 General seats.	4 Seats for Scheduled Castes.	5 Sikh seats.	6 Muhammadan seats.	7 Women's seats.
Madras ..	20	14	1	—	4	1
Bombay ..	16	10	1	—	4	1
Bengal ..	20	8	1	—	10	1
United Provinces ..	20	11	1	—	7	1
Punjab ..	16	3	—	4	8	1
Bihar ..	16	10	1	—	4	1
Central Provinces and Berar ..	8	6	1	—	1	—
Assam ..	5	3	—	—	2	—
North-West Frontier Province ..	5	1	—	—	4	—
Orissa ..	5	4	—	—	1	—
Sind ..	5	2	—	—	3	—
British Baluchistan ..	1	—	—	—	1	—
Delhi ..	1	1	—	—	—	—
Ajmer-Merwara ..	1	1	—	—	—	—
Coorg ..	1	1	—	—	—	—
Anglo-Indians ..	1	—	—	—	—	—
Europeans ..	7	—	—	—	—	—
Indian Christians ..	2	—	—	—	—	—
Totals ..	150	75	6	4	49	6

(ii) *Distribution of seats for purposes of triennial elections.*

1 Province.	Number of seats to be filled originally for three years only.					Number of seats to be filled originally for six years only.					Number of seats to be filled originally for nine years only.				
	2 General Seats.	3 Seats for Scheduled castes.	4 Sikh Seats.	5 Muhammadan Seats.	6 Women's Seats.	7 General Seats.	8 Seats for Scheduled castes.	9 Sikh Seats.	10 Muhammadan Seats.	11 Women's Seats.	12 General Seats.	13 Seats for Scheduled castes.	14 Sikh Seats.	15 Muhammadan Seats.	16 Women's Seats.
Madras	—	—	—	—	—	7	—	—	2	1	7	1	—	2	—
Bombay	5	—	—	2	1	—	—	—	—	—	5	1	—	2	—
Bengal	4	1	—	5	—	—	—	—	—	—	4	—	—	5	1
United Provinces ..	5	1	—	3	1	6	—	—	4	—	—	—	—	—	—
Punjab	2	—	2	4	—	1	—	2	4	1	—	—	—	—	—
Bihar	—	—	—	—	—	5	1	—	2	—	5	—	—	2	1
Central Provinces and Berar	—	—	—	—	—	6	1	—	1	—	—	—	—	—	—
Assam	—	—	—	—	—	3	—	—	2	—	—	—	—	—	—
North-West Frontier Province ..	—	—	—	—	—	—	—	—	—	—	1	—	—	4	—
Orissa	4	—	—	1	—	—	—	—	—	—	—	—	—	—	—
Sind	2	—	—	3	—	—	—	—	—	—	—	—	—	—	—
British Baluchistan ..	—	—	—	—	—	—	—	—	—	—	—	—	—	1	—
Delhi	—	—	—	—	—	—	—	—	—	—	1	—	—	—	—
Ajmer-Merwara ..	—	—	—	—	—	—	—	—	—	—	1	—	—	—	—
Coorg	—	—	—	—	—	—	—	—	—	—	1	—	—	—	—
Totals ..	22	2	2	16	2	28	2	2	15	2	25	2	—	16	2

TABLE OF SEATS.

The Federal Assembly.

Representatives of British India.

1	2	3	4	5	6	7	8	9	10	11	12	13
Province.	Total Seats.	General Seats :— Total of General Seats.	General seats reserved for Scheduled castes.	Sikh Seats.	Muhammadan Seats.	Anglo-Indian Seats.	European Seats.	Indian Christian Seats.	Seats for representatives of commerce and industry.	Land-holders Seats.	Seats for representatives of labour.	Women's Seats.
Madras	37	19	4	—	8	1	1	2	2	1	1	2
Bombay	30	13	2	—	6	1	1	1	3	1	2	2
Bengal	37	10	3	—	17	1	1	1	3	1	2	1
United Provinces	37	19	3	—	12	1	1	1	—	1	1	1
Punjab	30	6	1	6	14	—	1	1	—	1	—	1
Bihar	30	16	2	—	9	—	1	1	—	1	1	1
Central Provinces and Berar	15	9	2	—	3	—	—	—	—	1	1	1
Assam	10	4	1	—	3	—	1	1	—	—	1	—
North-West Frontier Province ..	5	1	—	—	4	—	—	—	—	—	—	—
Orissa	5	4	1	—	1	—	—	—	—	—	—	—
Sind	5	1	—	—	3	—	1	—	—	—	—	—
British Baluchistan	1	—	—	—	1	—	—	—	—	—	—	—
Delhi	2	1	—	—	1	—	—	—	—	—	—	—
Ajmer-Merwara	1	1	—	—	—	—	—	—	—	—	—	—
Coorg	1	1	—	—	—	—	—	—	—	—	—	—
Non-Provincial Seats	4	—	—	—	—	—	—	—	3	—	1	—
Totals ..	250	105	19	6	82	4	8	8	11	7	10	9

PART II.—REPRESENTATIVES OF INDIAN STATES.

1. The allocation to Indian States of seats in the Federal Legislative shall be as shown in the Table appended to this Part of this Schedule, hereinafter referred to as the "Table of Seats," and persons to represent Indian States in that Legislature shall be chosen and appointed in accordance with the provisions hereinafter contained.

2. In the case of the Council of State, there shall be allotted to each State or, as the case may be, to each group of States specified in the first column of the Table of Seats, the number of seats specified in the second column of the said Table opposite that State or to that group of States.

3. In the case of the Federal Assembly, there shall be allotted to each State or, as the case may be, to each group of States specified in the third column of the Table of Seats, the number of seats specified in the fourth column of the said Table opposite to that State or to that group of States.

4. A person shall not be qualified to be appointed under this Part of this Schedule to fill a seat in either Chamber of the Federal Legislature unless he—

(i) is a British subject or the Ruler or a subject of an Indian State which has acceded to the Federation; and

(ii) is, in the case of a seat in the Council of State, not less than thirty years of age and, in the case of a seat in the Federal Assembly, not less than twenty-five years of age:

Provided that—

(a) the Governor-General may in his discretion declare as respects any State, the Ruler of which at the date of the establishment of the Federation was by reason of his minority not exercising ruling powers, that subparagraph (i) of this paragraph shall not apply to any named subject, or to subjects generally, of that State until, that State comes under the rule of a Ruler who is of an age to exercise ruling powers; and

(b) sub-paragraph (ii) of this paragraph shall not apply to a Ruler who is exercising ruling powers.

5. Upon the expiration of the term for which he is appointed to serve as a member of the Federal Legislature, a person, if otherwise duly qualified, shall be eligible to be appointed to serve for a further term.

6. Subject to the special provisions hereinafter contained with respect to the appointement of persons to represent certain States and groups of States comprised in Divisions XVI and XVII of the Table of seats,—

(i) the Rulers of the States constituting a group of States to which a seat in the Council of State is allotted shall in rotation appoint a person to fill that seat; and

(ii) the Rulers of States constituting a group of States to which a seat in the Federal Assembly is allotted shall appoint jointly a person to fill that seat:

Provided that the Rulers of two or more States entitled to appoint in rotation a person to fill a seat in the Council of State allotted to a group of States may by agreement, and with the approval of the Governor-General in his discretion, appoint jointly a person to fill that seat.

7. The period for which a person shall be appointed to fill a seat shall be—

(i) in the case of a person appointed to fill a seat in the Council of State—

(a) by the Ruler of a State entitled to separate representation, nine years;

(b) jointly by the Rulers of all the States in a group which have acceded to the Federation, three years;

(c) by the Ruler of State appointing in rotation, one year subject, however, to the special provisions of the next succeeding paragraph with respect to certain States therein mentioned;

(d) jointly by Rulers of some only of the States in a group which have acceded to the Federation, a period equal to the aggregate of the periods for which each of them might in rotation have appointed a person to hold that seat or three years, whichever may be the shorter period;

(e) in any other manner, three years; and

(ii) in the case of a person appointed to fill a seat in the Federal Assembly until the dissolution of the Assembly:

Provided that—

(i) a person appointed to fill a seat upon the occurrence of a casual vacancy shall be appointed to fill that seat for the remainder of the period for which his predecessor was appointed;

(ii) in the case of first appointments to fill seats in the Council of State the Governor-General in his discretion shall make by order provision for securing that approximately one-third of the persons appointed by Rulers entitled to separate representation shall be appointed to fill seats for three years only, approximately one-third to fill seats for six years only and approximately one-third to fill seats for nine years.

8. The Ruler of a State mentioned in this paragraph when appointing in rotation a person to fill a seat in the Council of State shall, notwithstanding anything in the preceding paragraph be entitled to appoint that person to fill the seat—

(a) in the case of the Rulers of Panna and of Mayurbhanj, for two years; and

(b) in the case of the Ruler of Pudukkottai, for three years.

9. Subject as hereinafter provided, the Rulers of two or more States forming a group to which one seat in either Chamber of the Federal Legislature is allotted shall, in choosing a person to be appointed by them jointly to fill that seat, each have one vote, and in the case of an equality of votes the choice shall be determined by lot or otherwise in such other manner as may be prescribed:

Provided that in choosing a person to be appointed the Ruler of a State mentioned in sub-paragraph (a) of the preceding paragraph shall be entitled to two votes and the Ruler of the State mentioned in sub-paragraph (b) of that paragraph shall be entitled to three votes.

10. A seat in Chamber allotted to a single State shall remain unfilled until the Ruler of that State has acceded to the Federation, and a seat in either Chamber which is the only seat therein allotted to a group of States shall remain unfilled until the Rulers of at least one-half of those States have so acceded but, subject as hereinafter provided, so long as one-tenth of the seats in either Chamber allotted either to single States or to groups of States remain unfilled by reason of the non-accession of a State or States, whether such non-accession be due to the minority of a Ruler or to any other cause, the persons appointed by the Rulers of States to fill seats in that Chamber may from time to time in the prescribed manner appoint persons, not exceeding one-half of the number of seats so unfilled to additional members of that Chamber:

Provided that the right to appoint such additional members shall not be exercised after the expiration of twenty years from the establishment of the Federation.

A person appointed under this paragraph as an additional member of either Chamber shall be appointed to fill his seat for a period of one year only.

11. Persons to fill the seats in the Federal Assembly allotted to any group of States mentioned in Division XVI of the Table of Seats as entitled to appoint persons to fill three such seats shall be appointed in the prescribed manner by the Rulers of such of the States in the group as have acceded to the Federation:

Provided that—

(a) until the Rulers of two of those States have so acceded, all the three seats shall remain unfilled; and

(b) until the Rulers of four of those States have so acceded, two of the three seats shall remain unfilled; and

(c) until the Rulers of four of those States have so acceded, one of the three seats shall remain unfilled.

Seats in the Federal Assembly remaining unfilled by reason of the provisions of this paragraph shall be treated as seats remaining unfilled for the purposes of the last preceding paragraph.

12. The provisions of the paragraph shall apply with respect to the two seats in the Council of State and the five seats in the Federal Assembly allotted to the States comprised in Division XVII of the Table of Seats :—

(a) the States in question are such States, being States which on the first day of January, nineteen hundred and thirty five, were included in the Western India States Agency, the Gujarat States Agency, the Deccan States Agency, the Eastern States Agency, the Central India Agency or the Rajputana Agency, or were in political relations with the Government of the Punjab or the Government of Assam, as may be enumerated in rules made by the Governor-General in his discretion ;

(b) the Governor-General shall, in the rules so made by him, divide the said States into five groups, and of the five seats in the Federal Assembly allotted to those States one shall be deemed to be allotted to each of the groups ;

(c) a seat in the Federal Assembly allotted to one of the said groups shall remain unfilled until the Rulers of at least one-half of the States in the group have acceded to the Federation, but, save as aforesaid a person to fill such a seat shall be appointed in the prescribed manner by the Rulers of such of the States in the group as have acceded to the Federation ;

(d) persons to fill the two seats in the Council of State allotted to the States comprised in the said Division shall be appointed in the prescribed manner by the persons appointed under the preceding sub-paragraph to fill seats in the Federal Assembly :

Provided that so long as three of the five-seats in the Federal Assembly remain unfilled, one of the two seats in the Council of State shall also remain unfilled;

(e) seats in the Federal Assembly or Council of State remaining unfilled by reason of the provisions of this paragraph shall be treated as seats remaining unfilled for the purposes of the last but one preceding paragraph.

[1][This paragraph shall have effect as if the State of Khaniadhana had been included in the Centeral India Agency on the first day of January nineteen hundred and thirty-five.]

13. His Majesty in Council may by order vary the Table of Seats by transferring any State from one group of States specified in column one or codumn three of that Table to another group of States specified in the same column, if he deems it expedient so to do—

(a) with a view to reducing the number of seats which by reason of the non-accession of a State or States would otherwise remain unfilled; or

(b) with a view to associating in separate groups States whose rules do, and States whose rulers do not, desire to make appointments jointly instead of in rotation, and is satisfied that such variation will not adversely affect the rights and interest of any State :

Provided that a State mentioned in paragraph eight of this Schedule shall not be transferred to another group unless the Ruler of the State has agreed to relinquish the privileges enjoyed by him under the said paragraph and under paragraph nine.

Where an order varying the Table of Seats is made under this paragraph, references (whether express or implied) in the foregoing provisions of this Part of this Schedule to the Table shall be construed as references to the Table as so varied.

14. In so far as provision in that behalf is not made by His Majesty in Council,

1. *Added* by the India and Burma (Miscellaneous Amendments) Acts, 1940 (3 & 4 Geo. 6, Ch. 5), Sch. Part I.

the Governor-General may in his discretion make rules for carrying into effect the provisions of this Part of this Schedule and in particular, but without prejudice to the generality of the foregoing words, with respect to—

(*a*) the times at which and the manner in which appointments are to be made, the order in which Rulers entitled to make appointments in rotation are to make them and the date from which appointments are to take effect;

(*b*) the filling of casual vacancies in seats;

(*c*) the decision of doubts or disputes arising out of or in connection with any appointment; and

(*d*) the manner in which the rules are to be carried into effect.

In this Part of this Schedule the expression "prescribed" means prescribed by His Majesty in Council or by rules made under this paragraph.

15. For the purposes of sub-section (2) of section five of this Act—

(i) if the Rulers of at least one half of the States included in any group to which one seat in the Council of State is allotted accede to the Federation, the Rulers so acceding shall be reckoned as being entitled together to choose one member of the Council of State;

(ii) if, of the Rulers of States included in the groups to be formed out of the States comprised in Division XVII of the Table of Seats, sufficient accede to the Federation to entitle them to appoint one member or two members of the Federal Assembly, the Rulers so acceding shall be reckoned as being entitled together to choose one member of the Council of State and, if sufficient accede to entitle them to appoint three or more members of the Federal Assembly, the Rulers so acceding shall be reckoned as being entitled together to choose two members of the Council of State; and

(iii) the population of a State shall be taken to be the population attributed thereto in column five of the Table of Seat or, if it is one of the States comprised in the said Division XVII of the Table, such figures as the Governor-General may in his discretion determine, and the total population of the States shall be taken to be the total population thereof as stated at the end of the Table.

TABLE OF SEATS.

The Council of State and the Federal Assembly.

Representatives of Indian States.

1	2	3	4	5
States and Groups of States.	Number of seats in Council of State.	States and Groups of States.	Number of seats in the Federal Assembly.	Population.
		DIVISION I.		
Hyderabad	5	Hyderabad ..	16	14,436,148
		DIVISION II.		
Mysore	3	Mysore ..	7	6,557,302
		DIVISION III.		
Kashmir	3	Kashmir ..	4	3,646,243
		DIVISION IV.		
Gwalior	3	Gwalior ..	4	3,523,070

1 States and Groups of States.	2 Number of seats in Council of State.	3 States and Groups of States.	4 Number of seats in the Federal Assembly.	5 Population.
		DIVISION V.		
Baroda	3	Baroda ..	3	2,443,007
		DIVISION VI.		
Kalat	2	Kalat ..	1	342,101
		DIVISION VII.		
Sikkim	1	Sikkim ..	—	109,808
		DIVISION VIII.		
1. Rampur	1	1. Rampur ..	1	465,225
2. Benares	1	2. Benares ..	1	391,272
		DIVISION IX.		
1. Travancore ..	2	1. Travancore ..	5	5,095,973
2. Cochin	2	2. Cochin ..	1	1,205,016
3. Pudukkottai ..		3. Pudukkottai ..		400,694
Banganapalle ..	1	Banganapalle ..	1	39,218
Sandur		Sandur ..		13,583
		DIVISION X.		
1. Udaipur	2	1. Udaipur ..	2	1,566,910
2. Jaipur	2	2. Jaipur ..	3	2,631,775
3. Jodhpur	2	3. Jodhpur ..	2	2,125,982
4. Bikaner	2	4. Bikaner ..	1	936,216
5. Alwar	1	5. Alwar ..	1	749,751
6. Kotah	1	6. Kotah ..	1	685,804
7. Bharatpur	1	7. Bharatpur ..	1	486,954
8. Tonk	1	8. Tonk ..	1	317,760
9. Dholpur	1	9. Dholpur ..	1	254,986
10. Karauli	1	Karauli ..		140,525
11. Bundi	1	10. Bundi ..	1	216,722
12. Sirohi	1	Sirohi ..		216,528
13. Dungarpur ..	1	11. Dungarpur ..	1	227,544
14. Banswara		Banswara ..		260,670
15. Partabgarh ..		12. Partabgarh ..		76,559
Jhalawar	1	Jhalawar ..	1	107,890
16. Jaisalmer		13. Jaisalmer ..		76,255
Kishengarh ..	1	Kishengarh ..	1	85,744
		DIVISION XI.		
1. Indore	2	1. Indore ..	2	1,325,089
2. Bhopal	2	2. Bhopal ..	1	729,555
3. Rewa	2	3. Rewa ..	2	1,587,445
4. Datia	1	4. Datia ..		158,634
5. Orchha	1	Orchha ..	1	314,061
6. Dhar	1	5. Dhar ..		243,430
7. Dewas (Senior) ..	1	Dewas (Senior) ..	1	63,321
Dewas (Junior) ..		Dewas (Junior) ..		70,513
8. Jaora	1	6. Jaora ..		100,166
Ratlam		Ratlam ..	1	107,521
9. Panna		7. Panna ..		212,130
Samthar	1	Samthar ..	1	33,307
Ajaigarh		Ajaigarh ..		85,695
10. Bijawar		8. Bijawar ..		115,652
Charkhari	1	Charkhari ..	1	120,351
Chhatarpur ..		Chhatarpur ..		161,267

1 States and Groups of States.	2 Number of seats in Council of State.	3 States and Groups of States.	4 Number of seats in the Federal Assembly.	5 Population.
11. Baoni		9 Baoni ..		19,132
Nagod	1	Nagod ..	1	74,589
Maihar		Maihar ..		68,991
Baraundhha ..		Baraundh ..		16,971
12. Barwani		10. Barwani ..		141,110
Ali Rajpur	1	Ali Rajpur ..	1	101,963
Shahpura		Shahpura ..		54,533
13. Jhabua		11. Jhabua ..	1	145,522
Sailana	1	Sailana ..		35,723
Sitamau		Sitamau ..		28,422
14. Rajgarh		12. Rajgarh ..		134,891
Narsingarh ..	1	Narsingarh ..	1	113,873
Khilchipur		Khilchipur ..		45,883
		DIVISION XII.		
1. Cutch	1	1. Cutch ..	1	514,307
2. Idar	1	2. Idar ..	1	262,660
3. Nawanagar ..	1	3. Nawanagar ..	1	409, 92
4. Bhavnagar	1	4. Bhavanagar ..	1	500,274
5. Junagadh	1	5. Junagadh ..	1	545,152
6. Rajpipla	1	6. Rajpipla ..	1	206,114
Palanpur		Palanpur ..		264,179
7. Dhrangadhra ..	1	7. Dhrangadhra ..	1	88,961
Gondal		Gondal ..		205,646
8. Porbandar	1	8. Porbandar ..	1	115,673
Morvi		Morvi ..		113 023
9. Radhanpur		9. Radhanpur ..		70,530
Wankaner	1	Wankaner ..	1	44,259
Palitana		Palitana ..		62,150
10. Cambay		10. Cambay ..		87,761
Dharampur ..	1	Dharampur ..	1	112,031
Balasinor		Balasinor ..		52,525
11. Baria		11. Baria ..		159,129
Chhota Udepur ..		Chhota Udepur ..	1	144,040
Sant	1	Sant ..		83,531
Lunawada ..		Lunawada ..		95,162
12. Bansda		12. Bansda ..		48 839
Sachin	1	Sachin ..	1	22,107
Jawhar		Jawhar ..		57,261
Danta		Danta ..		26,196
13. Dhrol		13. Dhrol ..		27,639
Limbdi	1	Limbdi ..	1	40,088
Wadhwan ..		Wadhwan ..		42,602
Rajkot		Rajkot ..		75,540
		DIVISION XIII.		
1. Kolhapur	2	1. Kolhapur ..	1	957,137
2. Sangli	1	2. Sangli ..		258,442
Savantvadi ..		Savantvadi ..	1	230,589
3. Janjira		3. Janjira ..		110,579
Mudhol	1	Mudhol ..	1	62,832
Bhor		Bhor ..		141,546

1 States and Groups of States.	2 Number of seats in Council of State.	3 States and Groups of States.	4 Number of seats in the Federal Assembly.	5 Population.
4. Jamkhandi ..		4. Jamkhandi ..		114,270
Miraj (Senior) ..	1	Miraj (Senior) ..		93,938
Miraj (Junior) ..		Miraj (Junior) ..	1	40,084
Kurundwad (Senior)		Kurundwad (Senior)		44,204
Kurundwad (Junior)		Kurundwad (Junior)		39,583
5. Akalkot		5. Akalkot ..		92,605
Phaltan		Phaltan ..		58,761
Jath	1	Jath ..	1	91,099
Aundh		Aundh ..		76,507
Ramdurg		Ramdurg ..		35,454
		DIVISION XIV.		
1. Patiala	2	1. Patiala ..	2	1,625,520
2. Bahawalpur ..	2	2. Bahawalpur ..	1	984,[illegible]2
3. Khairpur	1	3. Khairpur ..	1	227,183
4. Kapurthala ..	1	4. Kapurthala ..	1	316,757
5. Jind	1	5. Jind ..	1	324,076
6. Nabha	1	6. Nabha ..	1	287,674
7. Mandi		7. Mandi ..	1	349,573
Bilaspur	1	8. Tehri-Garhwal ..		207,465
Suket		Bilaspur ..		100,994
8. Tehri-Garhwal ..		Suket ..	1	58,408
Sirmur	1	Sirmur ..		148,568
Chamba		Chamba ..		146,670
9. Faridkot		9. Faridkot ..		164,564
Malerkotla ..	1	Malerkotla ..	1	83,072
Loharu		Loharu ..		23,338
		DIVISION XV.		
1. Cooch Behar ..		1. Cooch Behar ..	1	590,686
2. Tripura		2. Tripura ..	1	382,450
Manipur	1	3. Manipur ..	1	445,606
1. Mayurbhanj ..		1. Mayurbhanj ..	1	889,003
Sonepur	1	2. Sonepur ..	1	237,920
2. Patna		3. Patna ..	1	566,924
Kalahandi ..	1	4. Kalahandi ..	1	513,716
3. Keonjhar		5. Keonjhar ..	1	460,609
Dhenkanal		6. Gangpur ..	1	356,674
Nayagarh	1	7. Bastar ..	1	524,721
Talcher		8. Surguja ..	1	501,939
Nilgiri				
4. Gangpur		9. Dhenkanal ..		284,326
Bamra		Nayagarh ..		142,406
Seraikela	1	Seraikela ..		143,525
Baud		Baud ..		135,248
Bonai		Talcher ..	3	69,702
5. Bastar		Bonai ..		80,186
Surguja		Nilgiri ..		68,594
Raigarh	1	Bamra ..		151,047
Nandgaon				

1 States and Groups of States.	2 Number of seats in Council of State.	3 States and Groups of States.	4 Number of seats in the Federal Assembly.	5 Population.
6. Khairagarh		10. Raigarh ..		277,569
Jashpur		Khairagarh ..		157,400
Kanker	1	Jashpur ..		193,698
Korea		Kanker ..	3	136,101
Sarangarh		Sarangarh ..		128,967
		Korea ..		90,886
		Nandgaon ..		182,580
		DIVISION XVII.		
States not mentioned in any of the preceding Divisions, but described in paragraph 12 of this Part of this Schedule.	2	States not mentioned in any of the preceding Divisions, but described in paragraph 12 of this Part of this Schedule.	5	[1][3,047,129]
		Total population of the States in this Table:		[1][78,996,844]

SECOND SCHEDULE.[2]

(Section 6.)

Provisions of the Act which may be amended without affecting the Accession of a State.

Part I.—In so far it relates to the Commander-in-Chief.

Part II, chapter II.—Save with respect to the exercise by the Governor-General on behalf of His Majesty of the executive authority of the Federation, and the definition of the functions of the Governor-General; the executive authority of the Federation; the function of the council of ministers, and the choosing and summoning of ministers and their tenure of office; the power of the Governor-General to decide whether he is entitled to act in his discretion or exercise his individual judgment; the functions of the Governor-General with respect to external affairs and defence; the special responsibilities of the Governor-General relating to the peace or tranquillity of India or any part thereof, the financial stability and credit of the Federal Government, the right of Indian States and the rights and dignity of their Rulers, and the discharge of his functions by or under the Act in his discretion or in the exercise of his individual judgment; His Majesty's instrument of Instructions to the Governor-General; the superintendence of the Secretary of State, and the making of rules by the Governor-General in his discretion for the transaction of, and the securing of transmission to him of information with respect to, the business of the Federal Government.

Part II, Chapter III.—Save with respect to the number of the representatives of British India and of the Indian States in the Council of State and the Federal Assembly and the manner in which the representatives of Indian States are to be chosen; the disqualifications for membership of a Chamber of the Federal Legislature in relation to the representatives of the States; the procedure for the introduction and passing of Bills joint sittings of the two Chambers, the assent to Bills, or the withholding assent from Bills, by the Governor-General; the reservation of bills for the signification

1. *Substituted* by the India and Burma (Miscellaneous Amendments) Act, 1940 (3 & 4 Geo. 6, Ch. 5), Sch. Pt. I for '3,032,197 and 78,931 912", *respectively*.
2. *Omitted* by the India (Provisional Constitution) Order, 1947.

of His Majesty's pleasure; the annual financial statement; the charging on the reveunes of the Federation of the salaries, allowances and pensions payable to or in respect of judges of the Federal Court, of expenditure for the purpose of the discharge by the Governor-General of his functions with respect to external affairs, defence, and the administration of any territory in the direction and control of which he is required to act in his discretion and of the sums payable to His Majesty in respect of the expenses incurred in discharging the functions of the Crown in its relations with Indian States; the procedure with respect to estimates and demands for grants; supplementary financial statements; the making of rules by the Governor-General for regulating the procedure of, and the conduct of business in the Legislature in relation to matters where he acts in his discretion or exercises his individual judgment, and for prohibiting the discusion of, or the asking of questions on, any matter connected with or the personal conduct of the Ruler or ruling family of any Indian State; the making of rules by the Governor-General as to the procedure with respect to joint sittings of, and communication between, the two chambers and the protection of judges of the Federal Court and State High Courts from discussion in the Legislature of their conduct.

Part II, chapter IV.—Save with respect to the power of the Governor-General to promulgation ordinances in his discretion or in the exercise of his individual judgment, or to enact Governor-General's Acts.

Part III, chapter I.—The whole chapter.

Part III, chapter II.—Save with respect to the special responsibilities of the Governor relating to the rights of Indian States and the rights and dignity of the Rulers thereof and to the execution of orders or directions of the Governor-General, and the superintendence of the Governor-General in relation to those responsibilities.

Part III, chapter III.—Save with respect to the making of rules by the Governor for prohibiting the discussion of, or the asking of questions on, any matter connected with or the personal conduct of the Ruler or ruling family of any Indian State, and the protection of judges of the Federal Court and State High Courts from discussion in the Legislature of their conduct .

Part III, chapter IV.—The whole chapter.

Part III, chapter V.—The whole chapter.

Part III, chapter VI.—The whole chapter.

Part IV.—The whole Part.

Part V, chapter I.—Save with 'respect to the power of the Federal Legislature to make laws for a State; the power of the Governor-General to empower either the Federal Legislature or Provincial Legislature to enact a law with respect to any matter not enumerated in any of the Lists in the Seventh Schedule to this Act; any power of a State to repeal a Federal law, and the effect of inconsistencies between a Federal law and a State law.

Part V, chapter II.—Save with respect to the previous sanction of the Governor-General to the introduction or moving of any Bill or amendment affecting matters as respects which the Governor-General is required to act in his discretion; the power of Parliament to legislate for British India or any part thereof, or the restrictions on the power of the Federal Legislature and of Provincial Legislatures to make laws on certain matters.

Part V, chapter III.—The whole chapter.

Part VI—Save in so far as the provisions of that Part relate to Indian States, or empower the Governor-General to issue orders to the Governor of a Province for preventing any grave menace to the place or tranquility of India or any part thereof.

Part VII, chapter I.—In so far as it relates to Burma.

Part VII, chapter II.—Save with respect to loans and guarantees to Federated States and the appointment, removal and conditions of service of the Auditor-General.

Part VII, chapter III.—Save in so far as it affects suits against the Federation by a Federated State.

Part VIII.—Save with respect to the constitution and functions of the Federal Railway Authority; the conduct of business between the Authority and the Federal Government, and the Railway Tribunal and any matter with respect to which it has jurisdiction.

Part IX, chapter I.—In so far as it relates to appeals to the Federal Court from High Courts in British India; the power of the Federal Legislature to confer further powers upon the Federal Court for the purpose of enabling it more effectively to exercise the powers conferred upon it by this Act.

Part IX, chapter II.—The whole chapter.

Part X.—Save with respect to the eligibility of Rules and subjects of Federated States for civil Federal office.

Part XI.—The whole Part.

Part XII.—Save with respect to the saving for rights and obligations of the Crown in its relation with Indian States; the use of His Majesty's forces in connection with the discharge of the function of the Crown in its said relations; the limitation in relation to Federated States of His Majesty's power to adapt and modify existing Indian laws: His Majesty's powers and jurisdiction in Federated States, and resolutions of the Federal Legislature or any Provincial legislature recommending amendments of this Act or Orders in Council made thereunder; and save also the provisions relating to the intrepretation of this Act so far as they apply to provisions of this Act which may not be amended without affecting the accession of a State.

Part XIII—The whole Part.

First Schedule.—The whole Schedule, except Part II thereof.

Fourth Schedule.—Save with respect to the oath or affirmation to be taken or made by the Ruler or subject of an Indian State.

Fifth Schedule.—The whole Schedule.

Sixth Schedule.—The whole Schedule.

Seventh Schedule—Any entry in the Legislative Lists in so far as the matters to which it relates have not been accepted by the State in question as matters with respect to which the Federal Legislature may make laws for that State.

Eighth Schedule.—The whole Schedule.

Ninth Schedule—The whole Schedule.

Tenth Schedule.—The whole Schedule.

THIRD SCHEDULE.

(Sections 7, 48.)

PROVISIONS AS TO GOVERNOR-GENERAL AND GOVERNORS OF PROVINCES.

1. There shall be paid to the Governor-General and to the Governors of the Provinces the following annual salaries, that is to say:

The Governor-General	250,800 rupees.
[1]The Governor of Madras	120,000 rupees.
The Governor of Bombay	
The Governor of Bengal	
The Governor of the United Provinces . . .	

1. The following changes were made by the India (Provisional Constitution) Order, 1947—

In paragraph I omit all entries after the entry relating to the Governor-General, and insert:—

"The Governor of a Province....66,000 rupees. Provided that the annual salary payable to any person who having been the Governor of a Province immediately before the 15th day of August, 1947, continues to be the Governor of that Province, shall be the same as before that date."

In paragraph 2 for "fixed by His Majesty in Council" substitute "fixed, as respects the Governor-General by Act of the Dominion Legislature, and as

The Governor of the Punjab The Governor of Bihar	100,000 rupees.
The Governor of Central Provinces and Berar	72,000 rupees.
The Governor of Assam The Governor of the North-West Frontier Province The Governor of Orissa The Governor of Sind	66,000 rupees.

2. There shall be paid to the Governor-General and to the Governors such allowances for expenses in respect of equipment and travelling upon appointment and such allowances during their terms of office as may from time to time be fixed by His Majesty in Council, and such provision shall be made for enabling the Governor-General and the Governors to discharge conveniently and with dignity the duties of their offices as may be determined by His Majesty in Council.[1]

3. While the Governor-General or a Governor is absent on leave, he shall in lieu of his salary be entitled to such leave allowance as may be fixed by His Majesty in Council.

4. There shall be granted to and in respect of the Governor-General and the Governor of every Province such customs privileges as may be specified by Order in Council.[1]

5. While any person appointed by His Majesty to act as Governor-General or as a Governor is so acting he shall be entitled to the same salary and, save as may be otherwise provided by His Majesty in Council the same allowances and privileges as the Governor-General or that Governor.

6. Any sums required to give effect to the provisions of this Schedule shall, in the case of the Governor-General or a person acting as such, be paid out of and charged on the revenues of the Province.

FOURTH SCHEDULE.

(Sections 24, 67, 200 & 220.)

FORMS OF OATHS OR AFFIRMATIONS.

1

Form of oath or affirmation to be taken or made by a member of a Legislature who is a British subject:—

I, A B, having been elected [*or* nominated *or* appointed] a member of this Council [*or* Assembly], do solemnly swear [*or* affirm] that I will be faithful and bear true allegiance to His Majesty the King, Emperor of India, His heirs and successors, and that I will faithfully discharge the duty upon which I am about to enter."

2.

Form of oath or affirmation to be taken or made by a member of a Legislature who is the Ruler of an Indian State:—

"I, A.B., having been elected [*or* nominated *or* appointed] a member of this

---

respects Governor by order of the Governor-General", and for "determined by His Majesty in Council" substitute "so determined".

In paragraph 3 for "His Majesty in Council" substitute "such an Act, or, as the case may be, an order, as aforesaid".

In paragraph 4 for "Order in Council" substitute "such an Act, or, as the case may be, an order, as aforesaid".

In paragraph 5 for "appointed by His Majesty" substitute "appointed", and for "His Majesty in Council" substitute "such an Act, or, as the case may be, an order as aforesaid".

After paragraph 6 insert:—

"7. Until other provision is made by Act of the Dominion Legislature, the Governor-General shall be entitled to the same allowances and privileges as he was entitled to immediately before the date of the establishment of the Dominion under the rules and orders then in force."

1. *See* India and Burma (Transitory Provisions) Order, 1937.

Council [*or* Assembly], do solemnly swear [*or* affirm] that I will be faithful and bear true allegiance in my capacity as Member of this Council [*or* Assembly] to His Majesty the King, Emperor of India, His heirs and successors, and that I will faithfully discharge the duty upon which I am about to enter."

3.

Form of oath or affirmation to be taken or made by a member of a Legislature who is a subject of the Ruler of an Indian State:—

"I, A.B., having been selected [*or* nominated *or* appointed] a member of this Council [*or* Assembly]; do solemnly swear [*or* affirm] that saving the faith and allegiance which I owe to C.D., his heirs and successors, I will be faithful and bear true allegiance in my capacity as Member of this Council [*or* Assembly] to His Majesty the King, Emperor of India, His heirs and successors, and that I will faithfully discharge the duty upon which I am about to enter."

4.

Form of judicial oath or affirmation to be taken or made by a British subject:—

"I, A.B, having been appointed Chief Justice [*or* a judge] of the Court do solemnly swear [*or* affirm] that I will be faithful and bear true allegiance to His Majesty the King, Emperor of India, His heirs and successors and that I will faithfully perform the duties of my office to the best of my ability, knowledge and judgment."

5.

Form of judicial oath or affirmation to be taken or made by a subject of the Ruler of an Indian State:—

"I, A.B., having been appointed Chief Justice [*or* a judge] of the Court do solemnly swear [*or* affirm] that saving the faith and allegiance which I owe to C.D., his heirs and successors, I will be faithful and bear true allegiance in my judicial capacity to His Majesty the King, Emperor of India, His heirs and successors, and that I will faithfully perform the duties of my office to the best of my ability, knowledge and judgment."

FIFTH SCHEDULE.[1]

(Section 61.)

COMPOSITION OF PROVINCIAL LEGISLATURES.

General qualification for Membership.

1. A person shall not be qualified to be chosen to fill a seat in a Provincial Legislature unless he—

(*a*) is a British subject or the Ruler or a subject of an Indian State which has acceded to the Federation or, if it is so prescribed with respect to any Province the Ruler or a subject of any prescribed Indian State; and

(*b*) is, in the case of a seat in a Legislative Assembly, not less than twenty-five years of age, and in the case of a seat in a Legislative Council, not less than thirty years of age; and

(*c*) possesses such, if any, of the other qualifications specified in, or prescribed under, this Schedule as may be appropriate in his case.

2. Upon the expiration of the term for which he is chosen to serve as a member of a Provincial Legislature, a person, if otherwise duly qualified, shall be eligible to be chosen to serve for a further term.

Legislative Assemblies.

3. The allocation of seats in Provincial Legislative Assemblies shall be as shown in the relevant Table of Seats appended to this Schedule.

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1. This Schedule came into force on 1-4-1937 under Government of India (Commencement and Transitory Provisions) Order, 1936 para. 3, and was *substituted* by the India (Provisional Constitution) Order, 1947.

4. In the Legislative Assembly of each Province specified in the first column of the Table of Seats there shall be the number of seats specified in the second column opposite to that Province, and of those seats—

(i) the number specified in the third column shall be general seats, of which the number specified in the fourth column shall be reserved for members of the scheduled castes and, in the case of Bombay, seven shall be reserved for Marathas;

(ii) the numbers specified in the next ten columns shall be the numbers of seats to be filled by persons chosen to represent respectively—(*a*) backward areas and backward tribes; (*b*) the Sikh community; (*c*) the Muhammadan community, (*d*) the Anglo-Indian community; (*e*) the European community, (*f*) the Indian Christian community; (*g*) the interests of commerce, industry, mining and planting; (*k*) landholders; (*i*) universities; and (*j*) the interests of labour; and

(iii) the numbers specified in the last five columns shall be the members of seats (being either general seats, Sikh seats, Muhammadan seats, Anglo-Indian seats or Indian Christian seats) reserved for women.

In the Punjab one of the landholders' seats shall be a seat to be filled by a Tumandar.

5. A Province, exclusive of any portion thereof which His Majesty in Council may deem unsuitable for inclusion in any constituency or in any constituency of any particular class, shall be divided into territorial constituencies—

(i) for the election of persons to fill the general seats;

(ii) for the election of persons to fill the Sikh seats, if any;

(iii) for the election of persons to fill the Muhammadan seats;

(iv) for the election of persons to fill the Anglo-Indian seats, if any; and

(v) for the election of persons to fill the European seats, if any; and

(vi) except in the case of Bihar, for the election of persons to fill the Indian Christian seats, if any, or, if as respects any class of constituency it is so prescribed, may form one territorial constituency.

In the case of each class of constituency as aforesaid the total number of seats available shall be distributed between the constituencies by the assignment of one or more of those seats to each constituency.

6. The required number of general seats to be reserved for members of the schedule castes, and in the Province of Bombay for Marathas, shall be reserved by reserving for members of those castes or, as the case may be, for Marathas one or more seats in each of so many of the general territorial constituencies as may be necessary, so, however, that in each such constituency there shall be at least one unreserved seat.

7. In a province in which any general seats are reserved for members of the scheduled castes, all members of those castes, who are entitled to vote in a constituency in which any seat is so reserved shall be entitled to take part in a primary election held for the purpose of electing four candidates for each seat so reserved and no member of those castes not elected as a candidate at such an election shall be qualified to hold—

(*a*) a seat so reserved in that constituency;

(*b*) if it is so prescribed as respects that Province, any seat in that constituency.

In relation to bye-elections this paragraph shall have effect with such adaptations and modifications as may be prescribed.

8. The persons to fill the seats specified in columns fifteen to nineteen of the Table of Seats as seats to be filled by women shall be chosen in territorial constitencies, which shall be either:—

(*a*) constituencies formed under paragraph five of this Schedule; or

(*b*) constituencies specially formed for the purpose of electing women members.

9. The provisions of the Sixth Schedule to this Act shall have effect with respect to the persons who are entitled to vote at elections in the territorial constituencies mentioned in paragraphs five and eight of this Schedule.

10. In a Province in which any seats are to be filled by representatives of backward areas or backward tribes, representatives of commerce, industry, mining and planting,

representatives of landholders, representatives of universities or representatives of labour, persons to fill those seats, and in Bihar the person to fill the Indian Christian seat, shall be chosen in such manner as may be prescribed:

Provided that in a Province in which any seats are to be filled by representatives of backward areas or backward tribes some or all of those seats may, if it is so prescribed, be treated in the prescribed manner as additional general seats to be reserved for representatives of such areas or tribes.

11. In the Punjab the landholder's seat to be filled by a Tumandar shall be assigned to such constituency as may be prescribed.

12. A person [2][shall not be qualified to be chosen to fill a seat] in the Legislative Assembly of a Province unless—

(*a*) in the case of a seat to be filled by a woman, by a European, by an Indian Christian, by a representative of backward areas or backward tribes, by a representative of commerce, industry, mining and planting, by a representative of universities or by a representative of labour, he possesses such qualifications as may be prescribed; and

(*b*) in the case of any other seat, he is entitled to vote in the choice of a member to fill that seat or any other seat of a similar class in that Province.

Legislative Councils.

13. The allocation of seats in the Legislative Councils of Provinces having such Councils shall be as shown in the relevant Table on Seats appended to this Schedule.

14. In the Legislative Council of each Province specified in the first column of the Table of Seats there shall be the number of seats specified in the second column opposite to that Province, and of those seats—

(*a*) the number specified in the third column shall be general seats;

(*b*) the number specified in the fourth, fifth and sixth columns shall be seats to be filled by persons chosen to represent respectively the Muhammadan community, the European community and the Indian Christian community;

(*c*) the number specified in the seventh column shall be seats to be filled by persons elected by the members of the Legislative Assembly of the Province in accordance with the system of proportional representation by means of the single transferable vote; and

(*d*) the number specified in the eighth column shall be seats to be filled by persons chosen by the Governor in his discretion.

15. A Province, exclusive of any portion thereof which His Majesty in Council may deem unsuitable for inclusion in any constituency or in any constituency of any particular class, shall be divided into territorial constituencies—

(i) for the purpose of electing persons to fill the general seats;

(ii) for the purpose of electing persons to fill the Muhammadan seats;

(iii) for the purpose of electing persons to fill the European seats;

(iv) for the purpose of electing persons to fill the Indian Christian seats, if any,

or if as respects any class of constituency it is so prescribed, may form one territorial constituency.

In the case of each such class of constituency as aforesaid the total number of seats available shall be distributed between the constituencies by the assignment of one or more of those to each constituency.

16. At an election in a constituency to fill a general seat, persons entitled to vote in a Muhammadan constituency, a European constituency, or an Indian Christian constituency shall not be entitled to vote.

In the case of a Muhammadan constituency, a European constituency, or an Indian Christian constituency no person shall be entitled to vote who is not, as the case may be, a Muhammadan, a European, or an Indian Christian.

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2. *Substituted* by the India and Burma (Miscellaneous Amendment) Act, 1940 (3 & 4 Geo. 6, Ch. 5) Sch. Part I, for "shall not be qualified to hold a seat".

17. The qualification entitling a person to vote in territorial constituencies at elections of members of a Provincial Legislative Council, and the qualifications to be possessed by members of such Councils, shall be such as may be prescribed.

18. The term of office of a member of the Legislative Council of a Province, other than a member chosen to fill a casual vacancy, shall be nine years, but upon the first constitution of the Council the Governor in his discretion shall make by order such provisions as he thinks fit, by curtailing the term of office of some of the members then chosen, for securing that, as nearly as may be, one-third of the members holding seats of each class shall retire in every third year thereafter.

A member chosen to fill a casual vacancy shall be chosen to serve for the remainder of his predecessor's term of office.

General.

19. In the foregoing provisions of the Schedule the following expressions have the meanings hereby assigned to them, that is to say,—

"a European," "an Anglo-Indian," an Indian Christian" and 'the scheduled caste" have the same meanings respectively as they have in Part I of the First Schedule to this Act;

"backward areas" and "backward tribes" mean respectively such areas and tribes as His Majesty in Council may from time to time declare to be areas and tribes to which a special system of representation is more appropriate; and "prescribed" means prescribed by His Majesty in Council or, so far as regards any matter which under this Act the Provincial Legislature or the Governor are competent to regulate, prescribed by an Act of that Legislature or by a rule made under the next succeeding paragraph.

20. In so far as provisions with respect to any matter is not made by this Act or by His Majesty in Council or, after the constitution of the Provincial Legislature, by Act of Legislature (where the matter is one with respect to which that Legislature is competent to make laws), the Governor, exercising his individual judgment, may make rules for carrying into effect the foregoing provisions of this Schedule and the provisions of the Sixth Schedule and securing the due constitution of the Provincial Legislature and in particular, but without prejudice to the generality of the foregoing words, with respect to—

(i) the notification of vacancies, including casual vacancies, and the proceedings to be taken for filling vacancies;

(ii) the nomination of candidates;

(iii) the conduct of elections, including the application to elections of the principle of proportional representation by means of the single transferable vote and the rules to regulate elections where certain of the seats to be filled are reserved for members of the scheduled classes, or in the case of Bombay for Marathas, or where certain of the seats allotted to any community must be held by a woman or by a specified type of landholder;

(iv) the expenses of candidates at elections;

(v) corrupt practices and other offences at or in connection with elections;

(vi) the decision of doubts and disputes arising out of or in connection with elections; and

(vii) the manner in which the rules are to be carried into effect.

TABLE OF SEATS.

Provincial Legislative Assemblies.

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
		General Seats.												Seats for Women.				
Province.	Total Seats.	Total of General Seats.	General Seats reserved for Scheduled Castes.	Seats for representatives of backward areas and tribes.	Sikh Seats.	Muhammadan Seats.	Anglo-Indian Seats.	European Seats.	Indian Christian Seats.	Seats for representatives of Commerce, Industry, mining, and planting.	Landholders' Seats.	University Seats.	Seats for representatives of labour.	General.	Sikh.	Muhammadan.	Anglo-Indian.	Indian Christian.
Madras	215	146	30	1	—	28	2	3	8	6	6	1	6	6	—	1	—	1
Bombay	175	114	15	1	—	29	3	3	3	7	2	1	7	5	—	1	—	—
Bengal	250	78	30	—	—	117	3	11	2	19	5	2	8	2	—	2	1	—
United Provinces ..	228	140	20	—	—	64	1	2	2	3	6	1	3	4	—	2	—	—
Punjab	175	42	8	—	31	84	1	1	2	1	5	1	3	1	1	2	—	—
Bihar	152	86	15	7	—	39	1	2	1	4	4	1	3	3	—	1	—	—
Central Provinces and Berar	112	64	20	1	—	14	1	1	—	2	3	1	2	3	—	—	—	—
Assam	108	47	7	9	—	34	—	1	1	11	—	—	4	1	—	—	—	—
North-West Frontier Province	50	9	—	—	3	36	—	—	—	—	2	—	—	—	—	—	—	—
Orissa	60	44	6	5	—	4	—	—	1	1	2	—	1	2	—	—	—	—
Sind	60	18	—	—	—	33	—	2	—	2	2	—	1	1	—	—	—	—

In Bombay seven of the general seats shall be reserved for Marathas. In the Punjab one of the Landholders' seats shall be a seat to be filled by a Tumandar. In Assam and Orissa the seats reserved for women shall be non-communal seats.

TABLE OF SEATS.

Provincial Legislative Councils.

1 Province.	2 Total of Seats.	3 General Seats.	4 Muhammadan Seats.	5 European Seats.	6 Indian Christian Seats.	7 Seats to be filled by Legislative Assembly.	8 Seats to be filled by Governor.
Madras	Not less than 54 Not more than 56	35	7	1	3	—	Not less than 8. Not more than 10.
Bombay	Not less than 29 Not more than 30	20	5	1	—	—	Not less than 3. Not more than 4.
Bengal	Not less than 63 Not more than 65	10	17	3	—	27	Not less than 6. Not more than 8.
United Provinces ..	Not less than 58 Not more than 60	34	17	1	—	—	Not less than 6. Not more than 8.
Bihar	Not less than 29 Not more than 30	9	4	1	—	12	Not less than 3. Not more than 4.
Assam	Not less than 21 Not more than 22	10	6	2	—	—	Not less than 3. Not more than 4.

SIXTH SCHEDULE.[1]

Schedule 5 (9).

PROVISIONS AS TO FRANCHISE

PART I.—GENERAL.

1. There shall be an electoral roll for every territorial constituency and no person who is not, and, except as expressly provided by this Schedule, every person who is, for the time being included in the electoral roll for any such constituency shall be entitled to vote in that constituency.

2. The electoral rolls for the territorial constituencies shall be made up and from time to time in whole or in part revised by references to such date, in this Schedule referred to as "the prescribed date," as may be directed in each case by the Governor, erercising his individual judgment.

3. No person shall be included in the electoral roll for any territorial constituency unless he has attained the age of twenty-one years and is either—

(*a*) a British subject; or

(*b*) the Ruler or a subject of a Federated State; or

(*c*) if and so far as it is so prescribed with respect to any Province, and subject to any prescribed conditions, the Ruler or a subject of any other Indian State.

4. No person shall be included in the electoral roll for, or vote at any elections in, any territorial constituency if he is of unsound mind and stands so declared by a competent court.

5. No person shall be included in the electoral roll for a Sikh constituency, a Muhammadan constituency, an Anglo-Indian constituency, a European constituency or an Indian Christian constituency unless he is a Sikh, a Muhammadan, an Anglo-Indian, a European or an Indian Christian, as the case may be.

6. No person who is or is entitled to be included in the electoral roll for any Sikh constituency, Muhammadan constituency, Anglo-Indian constituency, European constituency or Indian Christian constituency in any Province shall be included in the electoral roll for a general constituency in that Province. [2][* * *]:

Provided that this paragraph shall not apply in relation to the general seats reserved for women in Assam and Orissa or the constituencies for the election of persons to fill those seats.

7. No person shall in any Province vote at a general election in more than one territorial constituency, and in each Province such Provisions, if any, as may be prescribed in relation to that Province shall have effect for the purpose of preventing persons being included in the electoral roll for more than one territorial constituency in the Province. [3][If a person votes in more than one constituency in contravention of this paragraph, his votes in each constituencies shall be void.];

Provided that, in any Province in which territorial constituencies have been specially formed for the purpose of electing women members, nothing in this paragraph or in any such provisions shall prevent a person from being included in the electoral roll for, and voting at a general election in, one territorial constituency so formed and also one territorial constituency not so formed.

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1. *Effective* from 1-4-1937 under the Government of India (Commencement and Transitory Provisions) Order, 1936, para. 3.
2. The words 'or vote at any election to fill a general seat therein" were *omitted* by the India and Burma (Miscellaneous Amendments) Act, 1940 (3 and 4 Geo. VI, C. 5), Sch. Part I.
3. *Added* by the India and Burma (Miscellaneous Amendments) Act, 1940 (3 and 4 Geo. VI, C. 5), Sch., Part I.

8. No person shall be included in the electoral roll for, or vote at any election in, a territorial constituency if he is for the time being disqualified from voting under the provisions of such Order in Council, Act of the Provincial Legislature or rules made by the Governor as may be made or passed under this Act with respect to corrupt practices and other offences in connection with elections, and the name of any person who becomes so disqualified shall forthwith be struck off all the electoral rolls for territorial constituencies in which it may be included.

9. No person shall vote at any election in any territorial constituency, if he is for the time being undergoing a sentence of transportation, penal servitude or imprisonment.

10. The following provisions shall have effect with respect to the enfranchisement of women in respect of the qualifications of their husbands—

(*a*) a woman who, at the date of the death of her husband, is included in an electoral roll for a territorial constituency by virtue of his qualifications shall, notwithstanding anything in the subsequent provisions of this Schedule, continue to be on the roll for that constituency unless she remarries or becomes disqualified under the foregoing provisions of this Schedule for inclusion in that roll;

(*b*) not more than one woman shall at any one time appear in the electoral rolls for the territorial constituencies in a Province in respect of the qualifications of any particular man and any question which of several women is to be selected for inclusion shall be determined in the prescribed manner:

Provided that, if a woman who is entitled by virtue of sub-paragraph (*a*) of this paragraph to remain on the roll of a territorial constituency changes her place of residence, then, if she so desires, she may, on any subsequent revision of the roll, be transferred to the roll of such other territorial constituency as may be appropriate.

11. For the purposes of this Schedule any property owned, held, or occupied or payment made by, or assessment made on, a person as a trustee, guardian, administrator or receiver or in any other fiduciary capacity, shall except as otherwise expressly provided in this Schedule, be left out of account.

[4][12. This Schedule shall have effect as if any reference therein to a member of His Majesty's naval, military or air forces included a reference to a member of any British India police force, the Royal Indian Naval Reserve, the Royal Indian Navy Volunteer Reserve, the Auxiliary Force (India), the Indian Territorial Forces or the Royal Indian Air Force Volunteer Reserve not being a member who has been dismissed or discharged for disciplinary reasons:

Provided that this paragraph shall not have effect in relation to any person by reason of his membership of the Royal Indian Naval Reserve, the Royal Indian Naval Volunteer Reserve, the Auxiliary Force (India), the Indian Territorial Force or the Royal Indian Air Forces Volunteer Reserve unless the period of his service either was of not less than four years or included actual service in the Royal Indian Navy or the Royal Indian Air Force or service in a part of the Auxiliary Force (India) or the Indian Territorial Force for the time being embodied in pursuance of a notification issued by the Governor-General in Council and published in the Gazette of India.]

13.—(1) In this Schedule, except where the context otherwise requires—

"territorial constituency" means one of the territoral constituencies mentioned in paragraphs five and eight of the Fifth Schedule to this Act;

"European," "Anglo-Indian" "Indian Christian" and "scheduled castes" have the same meanings respectively as they have in Part I of the First Schedule to this Act;

"Indian Christian constituency" does not included any constituency which may be formed for choosing persons to fill the Indian Christian seat in Bihar;

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4. Para 12 was *substituted* by the Indian Franchise Act, 1945 (9 Geo. VI, Gl. 2), S. 4 and Sch., Part I, para. 3 [24-10-1945].

"person" does not include a body of persons;

"prescribed," except in the phrase "the prescribed date," has the same meaning as in this Fifth Schedule to this Act;

"previous financial year," 'previous Bengali year" and "previous fasli year" mean, respectively, the financial year, the Bengali year, and the falsi year immediately preceding that in which the prescribed date falls;

"house" and "building" include, respectively, a part of a house or building separately occupied as a dwelling or for the purposes of any trade, business, or profession;

"literate" means, in relation to any person, able to read and write in some language or dialect selected by him, being a language or dialect in common use in some part of India;

"cantonment" means a cantonment for the purposes of the Cantonments Act, 1924, and "cantonment record" means a record prepared under that Act.

(2) Any reference in this Schedule to 'urban constituencies" or "rural constituencies" shall be construed as a rtference to such territorial constituencies as may be classified as urban or rural constituencies, respectively, by an Order in Council delimiting territorial constituencies.

Provided that any such Order in Council may direct that any Anglo-Indian constituency, European constituency, or Indian Christian constituency shall be deemed to be an urban constituency for some purposes and a rural constituency for other purposes.

(3) Any reference in this Schedule to persons assessed to income tax in any financial year shall be deemed to include a reference to any partner in a firm assessed to income tax in that year if his share of the firm's income on which income tax was so assessed is certified in the prescribed manner to have been not less than the minimum on which the tax is leviable.

(4) If any question arises under this Schedule whether any person is or is not a Sikh, he shall be deemed to be a Sikh if and only if he makes in the prescribed manner a declaration in the prescribed from that he is a Sikh.

(5) Any reference in this Schedule to a [5][retired, pensioned or discharged member or to a] retired, pensioned or discharged office, non-commissioned or discharged from that force for disciplinary reasons.

(6) Any reference in his Schedule to all or any of the provisions of any Indian Act shall be construed as a reference to those provisions as amended by or under and other Act or if those provisions are repealed and re-enacted with or without modification, to the provisions so re-enacted.[6]

PART II.—MADRAS.

General requirements as to residence.

1. No person shall be qualified to be included in the electoral roll for a territorial constituency unless he has resided in a house in the constituency for a period of not less than one hundred and twenty days in the previous financial year.

A person is deemed to reside in a house if he sometimes uses it as a sleeping place and a person is not deemed to cease to reside in a house merely because he is absent from it or has another dwelling in which he resides, if he is at liberty to return to the house at any time and has not abandoned his intention of returning.

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5. *Inserted* by the Indian Franchise Act, 1945 (9 Geo. VI, C. 2), S. 4 and Sch., Part I, para. 4.
6. Sub-para (7) was *omitted* by the India and Burma (Miscellaneous Amendments) Act, 1940 (3 and 4 Geo. VI, C. 5), Sch., Part I.

Qualifications dependent on taxation.

2. Subject to the provisions of Part I of this Schedule and to any overriding provisions of this Part of this Schedule, a person shall be qualified to be included in the electoral roll for any territorial constituency if in the previous financial year he—

(*a*) paid tax under the Madras Motor Vehicles Taxation Act, 1931, for the whole of that year; or

(*b*) paid for both the half years of that year to a municipality, local board or cantonment authority in the Province profession tax under the Madras City Municipal Act, 1919, the Madras District Municipalities Act, 1920, the Madras Local Boards Act, 1920, or the Cantonments Act, 1924; or

(*c*) paid for both the half of that year to a municipality or cantonment authority in the Province property tax under any of the said Acts; or

(*d*) paid for both the half years of that year house tax under the Madras Local Boards Act, 1920; or

(*e*) occupied as sole tenant throughout that year a house in respect of which property tax or house tax has been paid for both the half years of that year under any of the Acts mentioned in this paragraph, or

(*f*) was assessed to income-tax.

Qualifications dependent on property, etc.

3. Subject as aforesaid, a person shall also be qualified to be included in the electoral roll for any territorial constituency if he—

(*a*) was on the last day of the previous fasli year a registered landholder, inamdar, ryotwari pattadar or occupancy ryot under the Madras Estates Land Act, 1908; or

(*b*) was in and for the previous fasli year assessed to ground rent payable to the Government of the Province; or

(*c*) was throughout the previous fasli year a kanamdar or kuzhikanamdar or the holder of a kudiyiruppu or a verumpattamdar having fixity of tenure, each of these terms having the meaning assigned to it in the Malabar Tenancy Act, 1929; or

(*d*) was throughout the previous fasli year a mortgagee with possession or lessee, under a registered instrument, of immovable property in the Province (other than house property) of an annual rent value, in the case of an urban constituency, of not less than one hundred rupees, and, in the case of a rural constituency of not less than fifty rupees.

4.—(1) Sub-paragraph (*a*) of the last preceding paragraph shall not apply in relation to registered joint landholders, registered joint inamdars, registered joint ryotwari pattadars or registered joint occupancy ryots, but in relation to such persons (being persons so registered on the last day of the previous fasli year) the folllowing provisions of this paragraph shall have effect.

(2) Where the joint holding of any joint landholders or joint holders of a whole inam village is of an annual rental of one-thousand rupees or upwards, then, subject to the provisions of Part I of this Schedule and to any overriding provisions of this Part of this Schedule, one registered joint holder for every complete five hundred rupees of the annual rental of the jojnt holding shall be qualified to be included in the electoral roll of the appropriate territorial constituency.

(3) Where the annual assessment, rent or Kist of the joint holding of joint holders of a minor inam, a ryotwari patta or an estate patta is one hundred rupees or upwards, then, subject as aforesaid, one registered joint holder for every complete fifty rupees of the annual assessment, rent or kist shall be qualified to be included in the electoral roll of the appropriate territorial constituency

(4) In other cases, one of the registered joint holders shall, subject as aforesaid, be qualified to be included in the electoral roll of the appropriate territorial constituency.

(5) The registered holders to be included under this paragraph in an electoral roll in respect of a joint holding shall be those nominated in an application in that behalf, signed by a majority of the registered joint holders.

Qualification by reason of guardianship.

5. Subject as aforesaid, a person shall also be qualified to be included in the electoral roll for any territorial constituency if he is on the prescribed date the guardian of a minor who by virtue of the foregoing provisions of this Part of this Schedule would have been entitled to be included in the electoral roll for that constituency if he were of full age and satisfied the requirefents of paragraph one of this Part of this Schedule.

Qualification by reason of Literacy.

6. Subject as a aforesaid, a person shall also be qualified to be included in the electoral roll for any territorial constituency if he is proved in the prescribed manner to be literate.

Qualification by reason of service in His Majesty's Forces.

7. Subject as aforesaid, a person shall also be qualified to be included in the electoral roll for any territorial constituency if he is a retired, pensioned or discharged [member of His Majesty's naval, military or air forces.]

Additional qualifications for women.

8. Subject as aforesaid, a person who is a woman shall also be qualified to be included in the electoral roll for any territorial constituency—

(*a*) if she is the pensioned widow or the pensioned mother of a person who was [a member of His Majesty's naval, military or air forces.]

(*b*) if her husband possesses the qualifications requisite for the purpose of this paragraph.

9. A husband shall be deemed to possess the qualifications requisite for the purposes of the last preceding paragraph if he either—

(*a*) was assessed in the previous financial year to income-tax; or

(*b*) is a retired, pensioned or discharged [member of His Majesty's naval, military or air forces]; or

(*c*) occupied for not less than six months in the previous financial year a house in the City of Madras the annual value whereof was not less than sixty rupees, not being a house in any military or police lines; or

(*d*) was assessed in the Province in the previous financial year to tax on companies; or

(*e*) was assessed in the Province in the previous financial year to an aggregate amount of not less than three rupees in respect of either or both of the following taxes, namely property tax or profession tax; or

(*f*) [7][was on the last day of the previous fasli year registered] as a ryotwari pattadar or an inamdar of land the annual rent value whereof is not less than ten rupees;

(*g*) [8][held throughout the previous fasli year] under a ryotwari pattadar or an inamdar a registered lease of land the annual rent value whereof is not less than ten rupees; or

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7. *Substituted* by the India and Burma (Miscellaneous Amendments) Act, 1940 (3 & 4 Geo. VI, C. 5), Sch., Part I for "is registered".
8. *Substituted, ibid.*, for "holds".
9. *Substituted, ibid.*, for 'as landholder".

(*h*) [7][was on the last day of the previous fasli year registered] jointly with the proprietor under section fourteen of the Malabar Land Registration Act, 1895, as the occupant of land the annual rent value whereof is not less than ten rupees; or

(*i*) [9][was on the last day of the previous fasli year a registered landholder] Lolding an estate the annual rent value where is not less than ten rupees; or

(*j*) [8][held on the last day of the previous fasli year] as ryot, or as tenant under a landholder, land the annual rent value whereof is not less than ten rupees.

[10][*Special qualification for Scheduled Castes.*]

9A. Subject to the provisions of Part I of the Schedule and to any overriding provisions of this Part of this Schedule, a person who is a member of the scheduled castes shall be qualified to be included in the electoral roll for any territorial constituency if throughout the previous fasli year he occupied as owner or lessee a house in a municipality, a cantonment or an area subject to the jurisdiction of a local board, with an annual rent value of not less than twelve rupees.]

Application necessary for enrolment in certain cases.

[11]10. No person shall by virtue of sub-paragraph (*e*) of paragraph 2, sub-paragraph (*c*) or sub-paragraph (*d*) of paragraph 3, paragraph 5 or paragraph 6 of this Part of this Schedule, or by virtue of her husband being a retired, pensioned or discharged [member of His Majesty's naval, military or air forces][12] be included in the electoral roll for any territorial constituency, unless application is made in the prescribed manner by or, if it is so prescribed, on behalf of, that person, that person should be so included.]

General provisions as to joint property, etc.

11.—(1) Subject to the provisions of this paragraph, properly held and payments made jointly by, and assessments made jointly on, more than one person, shall be left out of account for the purposes of this Part of this Schedule.

(2) Where any such property, payments or assessments would qualify a person if they had been held or made by, or made on, him solely, then, subject to the provisions of Part I of this Schedule and to any overriding provisions of this Part of this Schedule, one of those persons shall be qualified in respect of the property, payment or assessment and that person shall be—

(*a*) if the property is held or the payments or assessments made, by or on a Hindu joint family, the manager thereof;

(*b*) if the property is held or the payments or assessments made by or on any other joint family, the member thereof authorised in that behalf by the family themselves;

(*c*) in any other case, the person authorised in that behalf by a majority of the persons by or on whom the property is held or the payments or assessments made.

(3) Nothing in this paragraph affects paragraph four of this Part of this Schedule, or the provisions of Part I of this Schedule relating to partners in firms assessed to income-tax.

Interpretation, etc.

12.—(1) In this Schedule, in relation to Madras—

"estate" means an estate as defined in the Madras Estates Land Act, 1908;

"fasli year" means a year ending on the thirtieth day of June;

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10. *Inserted* by the India and Burma (Miscellaneous Amendments) Act, 1940 (3 & 4 Geo. 6, c. 5), Sch., Part I.

11. *Substituted* by the India and Burma (Miscellaneous Amtndments) Act, 1940 (3 & 4 Geo. VI, ch. 5), Sch., Part I.

12. *Substituted* by the Indian Franchise Act, (I. Geo. VI, c. 2), s. 4 and Sch., Part I, para. 5, for "officer, non-commissioned officer or soldier".

'landholder" means a person owning an estate or part of an estate and includes every person entitled to collect the rent of the whole or part of an estate by virtue of any transfer from the owner of his predecessor in title or of any order of a competent court, or of any provision of law;

"rent value" means the value as determined with the provisions of section seventy-nine of the Madras Local Boards Act, 1920, with reference to the accounts of the previous fasli year, or, in any case in which it is not possible so to determine the rent value, such value as appears to the registration officer to be the rent value;

'tenant" includes all persons who, whether personally or by an agent, occupy a house or land under the owner or landholder or intermediate landholder; whether or not rent is paid to the owner, landholder or intermediate landholder as the case may be, except that it does not include any person occupying a bonus in military or police lines rent free by virtue of any office, service or employment.

(2) A person who is paying or is liable to pay the rent of a house shall be deemed to occupy it.

[13][(3) References to this Part of this Schedule to, or to taxes payable in respect of, land or houses, relate exclusive to land or houses in the Provinces.]

PART III.—BOMBAY.

General requirement as to residence.

1. No person shall be qualified to be included in the electoral roll for a territorial constituency unless he satisfies the requirement as to residence in relation to that constituency.

For the purposes of this Part of this Schedule a person shall be deemed to satisfy the requirement as to residence—

(*a*) in relation to a Bombay city constituency, if he has for a period of not less than one hundred and eighty days in the previous financial year resided in a house in the city of Bombay or in the Thana mahal or the South Salsatte taluka;

(*b*) in relation to any other urban constituency, if he has for a period of not less than one hundred and eighty days in the previous financial year resided in a house in the constituency or within two miles of the boundary thereof;

(*c*) in the case of a rural contituency, if he has for a period of not less than one hundred and eighty days in the previous financial year resided in a house in the constituency, or in a contiguous constituency of the same communal description:

Provided that a person shall be deemed to satisfy the requirement as to residence in relation to any European or Anglo-Indian territorial constituency if he has for a period of not less than ane hundred and eighty days in the previous financial year resided in a house in the Province.

A person is deemed to reside in a house if he sometimes uses it as a sleeping place, and a person is not deemed to cease to reside in a house merely because he is absent from it or has another dwelling in which he resides, if he is at liberty to return to the house at any time and has not abandoned his intention of returning.

Qualifications dependent on taxation.

2. Subject to the provisions of Part I of this Schedule and to any overriding provisions of this Part of the Schedule, person shall be qualified to be included in the electoral roll for any territorial constituency. If he was assessed during the previous financial year to income-tax.

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13. *Added* by the India and Burma (Miscellaneous Amendments) Act, 1940 (3 & 4 Geo. VI, c. 5), Sch., Part I.

Qualifications dependent on property.

3. Subject as aforesaid a person shall also be qualified to be included in the electoral roll for any territorial constituency if he—

(*a*) holds in his own right, or occupies as a tenant, alienated or unalienated land or land on talukdari tenure, being land in the constituency assessed at or of the assessable value of, not less than eight rupees land revenue; or

(*b*) is the allence of the right of the Government to the payment of rent or land revenue amounting to not less than eight rupees in respect of alienated land in the constituency; or

(*c*) is a khot or sharer in a khoti village in the constituency, or a sharer in a bhagdari or narwadari village in the constituency, and is responsible for the payment of not less than eight rupees land revenue; or

(*d*) occupies in the constituency as owner or tenant a house or building, situate in the city of Bombay or in any municipal borough, municipal district, cantonment or notified area, and having at least the appropriate value.

In sub-paragraph (d) of this paragraph, the expression "the appropriate value" means—

(i) in relation to a house or building situate within the city of Bombay, an annual rental value of sixty rupees;

(ii) in relation to a house or building situate outside the city of Bombay but in an area in which a tax is based on the annual rental value of houses or buildings, an annual rental value of eighteen rupees;

(iii) in relation to any other house or building, a capital value of seven hundred and fifty rupees.

Educational qualification.

4. Subject as aforesaid, a person shall also be qualified to be included in the electoral roll for any territorial constituency if he is proved in the prescribed manner to have passed the matriculation or school leaving examination of the University of Bombay, or an examination prescribed as at least equivalent to either of those examinations or, if it so prescribed, any other prescribed examination, not lower than a vernacular final examination.

Qualification by reason of service in His Majesty's Forces.

5. Subject as aforesaid, a person shall also be qualified to be included in the electoral roll for any territorial constituency if he is a retired, pensioned or discharged [member of His Majesty's naval, military or air forces.]

Additional qualification for women.

6. Subject as aforesaid, a person who is a woman shall also be qualified to be included in the electoral roll for any territorial constituency—

(*a*) if she is the pensioned widow or the pensioned mother of a person who was [a member of His Majesty naval, military or air forces].

(*b*) if she is shown in the prescribed manner to be literate; or

(*c*) if her husband possesses the qualification requisite for the purposes of this paragraph.

7. A husband shall not be deemed to possess the qualification requisite for the purposes of the last preceding paragraph unless he satisfies the requirement as to residence in relation to the constituency in question, but subject as aforesaid a husband shall be deemed to possess the sad qualifications of—

(*a*) in the previous financial year, he was assessed to income-tax; or

(*b*) he is a retired, pensioned or discharged [member of his Majesty's naval, military or air forces]; or

(*c*) in the constituency he holds in his own right, or occupies as tenant, alienated or unalienated land or land on talukdari tenure assessed at, or of the assessable value of, not less than sixteen rupees land revenue in the Panch-Mahals sub-division of the Broach and Panch-Mahals district or in the Ratnagiri district, or not less than thirty-two rupees land revenue elsewhere; or

(*d*) he is the alience of the right of the Government to the payment or rent or land revenue in respect of alienated land in the constituency amounting to not less than sixteen rupees in the Panch-Mahals sub-division of the Broach and Panch-Mahals district or in the Ratnagiri district and to not less than thirty-two rupees elsewhere; or

(*e*) he is a khot or sharer in a khoti village in the constituency or a sharer in bhagdari or narwadari village in the constituency and, in either case, is responsible for the payment, in the Panch-Mahals sub-division of the Broach and Panch-Mahals district or in the Ratnagiri district, of not less than sixteen rupees land revenue and, elsewhere of not less than thirty-two rupees land revenue; or

(*f*) he occupies as owner or tenant in the constituency a house or building situate in the city of Bombay in a municipal borough, municipal district, cantonment or notified area and having at least the appropriate value.

In sub-paragraph (*f*) of this paragraph, the expression "appropriate value" means—

(i) in relation to a house or building in the city of Bombay, as annual rental value of one hundred and twenty rupees,

(ii) in relation to a house or building in the Panch-Mahals sub-division of the Broach and Panch-Mahals district or the Ratnagiri district, situate in an area in which any tax is based on the annual rental value of houses or buildings, an annual rental value of twenty-four rupees;

(iii) in relation to any other house or building in the Panch-Mahals sub-division of the Broach and Panch-Mahals district or the Ratnagiri district, a capital value of one thousand rupees;

(iv) in relation to a house or building in any other area in which any tax is based on the annual rental value of houses or buildings, an annual rental value of thirty-six rupees; and

(v) in relation to any other house or building, a capital value of one thousand five hundred rupees.

Special qualification for scheduled castes.

8. Subject as aforesaid a person who is a member of the scheduled castes shall also be qualified to be included in the electoral roll for any territorial constituency if either—

(*a*) he is shown in the prescribed manner to be literate; or

(*b*) he was at any time during the year ending on the thirty-first day of December next preceding the prescribed date a person actually performing in the Province the duties of an inferior village officer, whether hereditary or not:

Provided that a person who has been dismissed for misconduct and has not been re-employed shall not by virtue of sub-paragraph (*b*) of this paragraph be qualified to be entered in any electoral roll.

Application necessary for enrolment in certain cases.

9. No person shall by virtue of paragraph four or of paragraph six of this Part of this Schedule be included in the electoral roll for any territorial constituency unless

application is made in the prescribed manner by him or, if it is so prescribed, on his behalf, that he should be so included:

Provided that, except in relation to the original preparation of electoral rolls and revisions thereof within three years from the commencement of Part III of this Act, this paragraph shall, in relation to women qualified by virtue of their husbands' qualifications, have effect only where the husband's qualification is that mentioned in sub-paragraph (*b*) of paragraph seven of this Part of this Schedule.

Provisions as to joint property, etc.

10.—(1) Subject to the provisions of this paragraph, any reference in this Part of this Schedule to land or other immovable property, or to rent or land revenue in respect of alienated land, in relation to any persons who are co-sharers in such land, property, rent or land revenue, be construed as a reference to the respective shares of those persons.

(2) Where two or more persons occupy any house, the rental value of the house shall, in relation to each of those persons, be deemed to be the rental value thereof divided by the number of those persons.

(3) Where property is owned, held or occupied, or payments are made, jointly by, or assessments are made pointly on, the members of a joint family, and the property, payments or assessments would qualify a person if they had been owned, held, occupied or made by or on him solely, then, subject to the provisions of Part I of this Schedule and to any overriding provisions of this Part of this Schedule, one member of the family shall be qualified in respect of the property, payment or assessment, and that person shall be, in the case of a Hindu joint family, the manager thereof and, in other cases, the member authorised in that behalf by the family themselves.

Save as aforesaid, any property owned, held or occupied, or payments made, jointly by, or assessments made jointly on, the member of a joint family shall be left out out of account for the purposes of this Part of this Schedule.

(4) Nothing in this paragraph affects the provisions of Part I of this Schedule relating to partners in firms assessed to income-tax.

Interpretation, etc.

11.—(1) In this Schedule, in relation to Bombay—

"holder" means a person lawfully in possession of land, whether his possession is actual or not, and 'hold" shall be construed accordingly;

"tenant" means a lessee, whether holding under an instrument or under an oral agreement, and includes a mortgagee of a tenant's rights with possession, and, in relation to a house not situate in military or police lines, also includes any person occupying the house rent-free by virtue of any office, service or employment;

"Bombay city constituency" means a constituency comprising any part of the city of Bombay.

(2) The value of any machinery, furniture or equipment contained in or situate upon any house or building shall not be included in estimating for the purposes of this Schedule the rental value or the capital value of the house or building.

(3) In computing for the purposes of this Part of this Schedule the assessable value of any land, regard shall be had to the average rate of assessment on assessed land in the same village or, if there is no such land in the same village the average rate of assessment on assessed land in the nearest village containing assessed land.

PART IV.—BENGAL.

General requirement as to residence.

1.—(1) A person shall not be qualified to be included in the electoral roll for any territorial constituency unless he has a place of residence in that constituency:

Provided that—

(*a*) in the case of a Calcutta constituency, the provisions of this paragraph shall be deemed to be complied with in relation to any person if he has a place of residence in Calcutta and a place of business within the constituency;

(*b*) in the case of a European constituency, the provisions of this paragraph shall be deemed to be complied with in relation to any person if he is actually employed anywhere in Bengal but is absent from Bengal on leave from his employment.

(2) In this paragraph "a place of residence" means a place where a person ordinarily and actually resides during the greater part of the year.

Qualifications dependent on taxation.

2. Subject to the provisions of Part I of this Schedule and to any overriding provisions of this Part of this Schedule, a person shall be qualified to be included in the electoral roll for any territorial constituency if he—

(*a*) has paid before the expiration of the previous year any sum as tax under the Bengal Motor Vehicles Tax Act, 1932, in respect of that year; or

(*b*) was assessed during the previous year to income-tax; or

(*c*) was during the previous year entered in the municipal assessment book or licence register, or any other authorised register maintained by the corporation of Calcutta, as having paid in respect of that year either directly or indirectly any sum as consolidated rate, tax or licence fee to the corporation; or

(*d*) has paid during and in respect of the previous year municipality or cantonment taxes or fees of not less than eight annas, or road and public works casses under the Cess Act, 1880, of not less than eight annas, or Chaukidar tax under the Village Chaukidari Act, 1870, of not less than six annas, or union rate under the Bengal Village Self-Government Act, 1919, of not less than six annas.

Qualifications dependent on property.

3. Subject as aforesaid, a person shall also be qualified to be included in the electoral roll of any territorial constituency if at any time during the previous financial or Bengali year he has occupied by virtue of his employment a house in the Province the annual valuation of which is not less than forty-two rupees.

In this paragraph "annual valuation" means the annual rental of the house as ascertained from any accounts of the employer of the person in question which are required by or under any law to be regularly audited or, if the annual valuation is not so ascertainable, one-tenth of the annual remuneration received by the person in question for the employment by virtue of which he occupies it.

Educational qualification.

4. Subject as aforesaid, a person shall also be qualified to be included in the electoral roll for any territorial constituency if he is proved in the prescribed manner to have passed the matriculation examination of any prescribed university or an examination prescribed as at least equivalent to any such examination, or if it is so prescribed, any other prescribed examination, not lower than a final middle school examination.

Qualification by reason of service in His Majesty's forces.

5. Subject as aforesaid a person, shall be qualified to be included in the electoral roll for any territorial constituency if he is a retired, pensioned or discharged [member of His Majesty's naval, military or air forces].

Additional qualifications for women.

6. Subject as aforesaid, a person who is a woman shall also be qualified to be included in the electoral roll for any territorial constituency if she is the pensioned

widow or the pensioned mother of a person who was a [member of His Majesty's naval, military or air forces] or if her husband possesses the qualifications requisite for the purposes of this paragraph or if she is shown in the prescribed manner to be literate:

Provided that, in relation to the original preparation of electoral rolls and revisions thereof within three years from the commencement of Part III of this Act, this paragraph shall have effect as if the words 'or if she is shown in the prescribed manner to be literate" were omitted therefrom.

7. In relation to a Calcutta constituency, a husband shall be deemed to possess the qualifications requisite for the purposes of the last preceding paragraph if—

(*a*) he was during the previous year entered in the municipal assessment book as the owner and occupier of any land or building in Calcutta separarely numbered and valued for assessment purposes at not less than one hundred and fifty rupees per annum, or as the owner or occupier of any land or building in Calcutta separately rumbered and valued for assessment purposes at not less than three hundred rupees per annum and paid during that year his share of the consolidated rate on the land or building; or

(*b*) he has paid during and in respect of the previous year on his sole account and in his own name not less than twenty-four rupees either in respect of the taxes levied under Chapter XI, or in respect of the taxes levied under Chapter XII, of the Calcutta Municipal Act, 1923; or

(*c*) his name is entered in the municipal assessment book in respect of any land or building to Calcutta in respect of which not less than twenty-four rupees was paid in the previous year in respect of the consolidated rate.

8. In relation to an urban constituency which is not a Calcutta constituency, a husband shall be deemed to possess the qualifications requisite for the said purposes if, during and in respect of the previous year, he paid, in the municipality of Howrah, municipal taxes or fees of not less than three rupees, or in any other municipal area or cantonment in the Province, municipal or cantonment taxes or fees of not less than one rupee eight annas.

9. In relation to a rural constituency, a husband shall be deemed to possess the qualifications requisite for the said purposes if, during and in respect of the previous year, he paid not less than one rupee, eight annas in respect of municipal taxes or fees, or not less than one rupee in respect of road and public works cesses under the Cess Act, 1880; or not less than two rupees in respect of Chaukidari tax under the Village Chaukidari Act, 1870, or in respect of union rate under the Bengal Village Self-Government Act, 1919.

10. In relation to any territorial constituency, a husband shall be deemed to possess the qualifications requisite for the said purposes if he either is a retired, pensioned or discharged [member of His Majesty's naval, military or air forces] or was assessed in the previous year to income tax, or paid before the expiration of the previous year and sum as tax under the Bengal Motor Vehicles Tax Act, 1932, in respect of that year.

Special provisions as to Darjeeling general constituency.

11. Subject as aforesaid, a person shall also be qualified to be included in the electoral roll for any rural general constituency comprising any part of the Sadar, Kalimpong and Kurseong sub-divisions of the Darjeeling district if that person either—

(*a*) has paid during and in respect of the previous year rent of not less than twenty rupees for any land in the Province situate in a municipal area or for any hired building in the Province, or rent of not less than two rupees for any land in the Province not situate in a municipal area; or

(*b*) is the wife of a person who, during and in respect of the previous year, has paid rent of not less than sixty rupees for any land in the Province situate in a

municipal area or for any hired building in the Province, or rent of not less than six rupees for any land in the Province not situate in a municipal area.

Application necessary for enrolment in certain cases.

12. No person shall by virtue of paragraph three or paragraph four of this Part of this Schedule be included in the electoral roll of any territorial constituency, unless application is made in the prescribed manner by him, or if it is so prescribed, on his behalf, that he should be so included.

Special provisions as to Muhammadan women's constituency.

13. No man shall be included in the electoral roll for, or be entitled to vote at any election in, any Muhammadan constituency specially formed the election of persons to fill the seats reserved for woman.

14.—(1) In this Schedule in relation to Bengal,—

"Calcutta" means Calcutta as defined in paragraph 11 of section three of the Calcutta Municipal Act, 1925;

"a Calcutta constituency's means, subject to the provisions of this paragraph with respect to Anglo-Indian constituencies, European constituencies or Indian Christian constituencies, a constituency which comprises any part of Calcutta;

"previous year" means the previocs financial year or the previous Bengali year, whichever is appropriate in the particular case;

"Bengali year" means a year ending on the last day of the Bengali month of Chaitra.

(2) Notwithstanding anything in this paragraph, an Order in Council delimiting territorial constituencies may provide that any Anglo-Indian constituency, European constituency or Indian Christian constituency comprising any part of Calcutta, shall for all or any of the purposes of this Part of this Schedule, be deemed not be a Calcutta constituency.

(3) Where property is held or payments are made jointly by, or assessments are made jointly on, the members of a joint family, the family shall be adopted as the unit for deciding whether the requisite qualification exists, and if it does exist the person qualified shall be, in the case of a Hindu joint family, the manager thereof, and in other cases the member authorized in that behalf by the family themselves:

Provided that this paragraph shall not apply where members of a joint family have separate accommodation and separate messing, and in any such case any reference to each member's share of that property, payment or assessment.

PART V.—THE UNITED PROVINCES.

General requirement as to residence.

1.—(1) A person shall not be qualified to be included in the electoral roll for any territorial constituency unless he is resident in the constituency.

(2) For the purposes of this Part of this Schedule a person shall be deemed to be resident in any area if he ordinarily lives in that area or maintains a dwelling-house therein ready for occupation in which occasionally dwells.

Qualifications dependent on taxation.

2. Subject to the provisions of Part I of this Schedule and to any overriding provisions of this Part of this Schedule, a person shall be qualified to be included in the electoral roll for any territorial constituency if he—

(a) was assessed during the previous financial year to income tax; or

(b) was, in an area wholly or partly within the constituency in which a municipal tax is in force, assessed in the previous financial year to municipal tax on an income of not less than one hundred and fifty rupees per annum.

Qualifications dependent on property.

3. Subject as aforesaid, a person shall also be qualified to be included in the electoral roll for any territorial constituency if he is the owner or tenant, of a house or building in the constituency the rental value whereof is not less than twenty four rupees per annum [14][or, in the case of a member of the scheduled castes, if he is the owner or tenant of a house or building in the constituency the rental value whereof is not less than twelve rupees per annum.]

4. Subject as aforesaid, a person shall also be qualified to be included in the electoral roll for any territorial constitiency if he—

(a) owns land in the constituency on which land revenue of not less than five rupees per annum is payable; or

(b) owns land in the constituency free of land revenue, if the land revenue nominally assessed on the land for determining the amount of rates payable in respect of the land, either alone or together with any land revenue payable by him as owner of other land in the constituency, amounts to not less than five rupees per annum; or

(c) is a tenant of land in the constituency in respect of which rent of not less than ten rupees per annum or rent in kind equivalent is not less than ten rupees per annum, is payable; or

(b) is an under-proprietor in Oudh of land in the constituency in respect of which under-proprietary rent of not less than five rupees per annum is payable; or

(e) in the case of a constituency comprising any part of the Hill Pattis of Kumaun, is resident in those Hill Pattis and, in the constituency, either is owner of a free simple estate in those Hill Pattis. or is assessed to the payment of land revenue or cessess of any amount in those Hill Pattis, or is a Khaikar.

Educational qualification.

5. Subject as aforesaid, a person shall also be qualified to be included in the electoral roll for any territorial constituency if he is proved in the prescribed manner to have passed the upper primary examination, or an examination which the prescribed as the equivalent thereof.

Qualification by reason of service in His Majesty's forces.

6. Subject as aforesaid, a person shall also be qualified to be included in the electoral roll for any territorial constituency if he is a retired, pensioned or discharged member of His Majesty's naval, military or air forces.

Special provision os to Shilpkars in the Hill Pattis of Kumaun.

7. Subject as aforesaid, a person shall also be qualified to be included in the electoral roll for any territorial constituency comprising any part of the Hill Pattis of Kumaun if he is a Shilpkar resident village in those Hill Pattis and in the prescribed manner selected and designated as their representative by the Shilpkar families of that village.

Additional qualifications for women.

8. Subject as aforesaid, a person who is a woman shall also be qualified to be included in the electoral roll for any territorial constituency—

(a) if she is the pensioned widow or the pensioned mother of a person who was a member of His Majesty's naval, military, or air forces.

(b) if she is proved in the prescribed manner to be literate; or

(c) if her husband possesses the qualifications requisite for the purpose of this paragraph.

9. In relation to any territorial constituency, a husband shall be deemed to possess the qualifications requisite for the purposes of the last preceding paragraph if—

(a) he is the owner or tenant of a house or building in the constituency, the rental value whereof is not less than thirty-six rupees per annum; or

(b) was, in area in which no house or building tax is in force, assessed in the previous year in the constituency to municipal tax on an income of not less than two hundred rupees per annum; or

(c) owns land in the constituency in respect of which land revenue amounting to not less than twenty-five rupees per annum is payable; or

(d) owns land in the constituency free of land revenue, if the land revenue nominally assessed on the land for determining the amount of rates payable in respect thereof, either alone or together with any land revenue payable by him as owner in respect of other land in the constituence, amounts to do not less than twenty-five rupees per annum; or

(e) is resident in the Hill Pattis of Kumaun and in the constituency, either owns a fee simple estate situate in the Hill Pattis or is assessed to the payment of land revenue or cesses of any amount in those Hill Pattis, or a Khaikar; or

(f) is, in the constituency, a permanent tenure-holder or a fixed rate tenant as defined in the Agra Tenancy Act, 1926, or an under-proprietor or occupancy tenant as defined in the Oudh Rent Act, 1886, and is liable as such to rent of not less than twenty five rupees per annum; or

(g) holds in the constituency as a tenant, land in respect of which a rent of not less than fifty rupees per annum or a rent in kind equivalent to not less than fifty rupees per annum is payable; or

(h) was assessed in the previous financial year to income-tax; or

(i) is a retired, pensioned or discharged member of His Majesty's naval, military or air forces.

Application necessary for enrolment in certain cases.

10.—(1) No person shall by virtue of paragraph five or sub-paragrah (*a*) or sub-paragraph (b) of paragraph eight of this Part of this Schedule, or by virtue of her husband being a retired, pensioned or discharged member of His Majesty's naval, military or air forces, be included in the electoral roll for any territorial constituency unless application is made in the prescribed manner, by or if it is so prescribed, on behalf of, that person, that that person should be so included.

(2) On the preparation of the original electoral roll for any rural constituency or on any revision of the electoral roll for a rural constituency within three years from the commencement of Part III of this Act, no person shall be virtue of her husband possessing any of the other qualifications requisite for the purposes of the said paragraph eight be included in the electoral roll unless application is made in the prescribed manner by her, or if it is so prescribed, on her behalf, that she should be so included.

Interpretation, etc.

11.—(1) In this Schedule, in relation to the United Provinces—

"owner" does not include a mortgagee or a lessee, and "own" shall be construed accordingly;

"tenant" as respects any land in a rural area means a tenant as defined in the Agra Tenancy Act, 1926, or the Oudh Rent Act, 1886, as the case may be, and does not include a sub-tenant, and as respects any house or building means a person who occupies it on payment of rent, or in the case of a house, not situate in military or police lines, a person who occupies it rent free by virtue of any office, service or employment;

"under-proprietor" means an under-proprietor as defined in the Oudh Rent Act, 1886;

"Khaikar" means a person recorded as such in the records of rights of land in the Hill Pattis of Kumaun;

"building" means abuilding as defined in the United Provinces Municipalities Act, 1916;

"rental value" means the value of a houses or building based on the amount rent;

"municipal tax" and "house or building tax," means the taxes respectively known by those names imposed under the United Provinces Municipalities Act, 1916, the United Provinces Town Areas Act, 1914, and the Cantonments Act, 1924;

"urban area" means a municipality or notified area (as defined in sub-section (9) of section two, and sub-section (2) of section three hundred and thirty-seven of the United Provinces Municipalities Act, 1916, or a town area as defined in the United Provinces Town Areas Act, 1914, or a cantonment;

"rural area" means an area which is not an urban area;

(2) Where property is held or payments are made jointly by, or assessments are made jointly on, the member of a joint family or joint tenancy, the family or tenancy shall be adopted as the unit for deciding whether under this Part of this Schedule requisite qualification exists, and if it does exist, the person qualified shall be, in the case of a joint Hindu family, the manager thereof or, if there is no manager, the member nominated in that behalf by the majority of the family, and in other cases the member nominated in that behalf by the family or tenancy concerned.

PART VI.—THE PUNJAB.

General requirements as to residence.

1. No person shall be qualified to be included in the electoral roll for a territorial constituency unless he is resident in the constituency.

For the purposes of this Part of this Schedule proof that a person owns a family dwelling-house or a share in a family dwelling-house in a constituency and that that house has not during the twelve months preceding the prescribed date been let on rent either in whole or in part shall be sufficient evidence that that person is resident in the constituency.

Qualifications dependent on taxation.

2. Subject to the provisions of Part I of this Schedule and to any overriding provisions of this Part of this Schedule, a person shall be qualified to be included in the electoral for a territorial constituency if during the previous financial year either—

(*a*) he was assessed to income tax, or was in the Province assessed in respect of any direct municipal or direct cantonment tax to an amount of not less than fifty rupees; or

(*b*) he was in the Province assessed to haisiyat or profession tax to an amount of not less than two rupees, or, in districts in which no such tax exists, to any other direct tax imposed under the Punjab District Boards Act to an amount of not less than two rupees.

Qualifications dependent on property, etc.

3. Subject as aforesaid, a person shall be qualified to be included in the electoral roll for any territorial constituency if he either—

(*a*) is the owner of land in the Province assessed to land revenue of not less than five rupees per annum, or

(*b*) is a tenant with a right of occupancy as defined in Chapter II of the Punjab Tenancy Act, 1887, in respect of land in the Province assessed to land revenue of not less than five rupees per annum; or

(*c*) is an assignee of land revenue in the Province amounting to not less than ten rupees per annum; or

(*d*) is a tenant of not less than six acres of irrigated land in the constituency, or of not less than twelve acres of unirrigated land in the constituency; or

(*e*) has throughout the twelve months immediately preceding the prescribed date owned immovable property in the Province of the value of not less than two thousand rupees or of an annual rental value of not less than sixty rupees, not being land assessed to land revenue; or

(*f*) has throughout the twelve months preceding the prescribed date occupied as tenant in the constituency immovable property of an annual rental value of not less than sixty rupees, not being land assessed to land revenue; or

(*g*) is a zaildar, inamdar, sufedposh or lambardar in the constituency;

Provided that the provisions of sub-paragraph (*d*) of this paragraph shall be deemed to be complied with in the case of a person who is the tenant of both irrigated and unirrigated land in the constituency if the sum of the area of that irrigated land and half the area of that unirrigated land is not less than six acres.

Educational qualification.

4. Subject as aforesaid, a person shall also be qualified to be included in the electoral roll for any territorial constituency if he is proved in the prescribed manner to have attained the primary or an equivalent or higher educational standard.

Qualification by reason of services in His Majesty's forces.

5. Subject as aforesaid, a person shall also be qualified to be included in the electoral roll for any territorial constituency if he is a retired, pensioned or discharged member of His Majesty's naval, military or air forces.

Additional qualifications for women.

6. Subject as aforesaid a person who is a woman shall also be qualified to be included in the electrol roll for any territorial constituency if she pensioned widow or the pensioned mother of a person who was a member of His Majesay's naval, military or air forces or if she is shown in the prescribed manner to be literate or if her husband possesses the qualifications requisite for the purpose of this paragraph.

7. A husband shall be deemed to possess the qualifications requisite for the purposes of the last preceding paragraph if he either—

(*a*) during the previous financial year was assessed to income-tax, or was assessed to income-tax, or was assessed in the Province in respect of any direct municipal or cantonment tax to an amount of not less than fifty rupees; or

(*b*) is a retired, pensioned or discharged member of His Majesty's naval, military or air forces; or

(*c*) has throughout the twelve months preceding the prescribed date owned immovable property in the province of the value of not less than four thousand rupees or of an annual rental value of not less than ninety-six rupees, not being land assessed to land revenue; or

(*d*) has throughout the twelve months precedings the prescribed date occupied as a tenant immovable property in the constituency of an annual rental value of not less than ninety-six rupees, not being land assessed to land revenue; or

(*e*) is the owner of land in the Province assessed to land revenue of not less than twenty-five rupees per annum; or

(*f*) is the assignee of land revenue in the Province amounting to not less than fifty rupees per annum; or

(*g*) is a tenant or lessee under the term of a lease for a period of not less than three years of Crown land in the constituency for which an annual rent of not less than twenty-five rupees is payable; or

(*h*) is a tenant with a right of occupancy as defined to Chapter II of the Punjab Tenancy Act, 1887, in respect of land assessed to land revenue of not less than twenty-five rupees per annum:

Provided that for the purposes of sub-paragraph (*g*) of this paragraph, where the amount payable by any tenant or lessee is assessed from harvest to harvest, the annual rent payable by him shall be deemed to be the annual average of the amounts payable by him in the three years preceding that in which the prescribed date falls.

Special qualification for scheduled castes.

8. Subject as aforesaid a person who is a member of the scheduled castes shall also be qualified to be included in the electrol roll for any territorial constituency if he either—

(*a*) is shown in prescribed manner to be literate; or

(*b*) has throughout the twelve months preceding the prescribed date owned immovable property in the Province of a value of not less than fifty rupees, not being land assessed to land revenue, or has throughout that period owned malba of a house in the Province of not less than that value; or

(*c*) has, throughout the twelve months preceding the prescribed date, occupied as tenant immovable property in the constituency of an annual value of not less than thirty-six rupees.

Application necessary for enrolement in certain cases.

9. No person, shall, by virtue of paragraph four paragraph six or sub-paragraph (*a*) of paragraph, eight of this Part of this Schedule, be included in the electoral roll for any territorial constituency unless application is made by him in the prescribed manner that he should be so included.

Interpretation, etc.

10.—(1) In this Schedule, in relation in the Punjab—

"annual rental value" in relation to immovable property means the amount for which the property together with its appurtenances and furniture, if any, is actually let, or may reasonably be expected to let, from year to year;

"land revenue" means land revenue as defined in sub-section (6) of section three of the Punjab Land Revenue Act, 1887, and, in the case of fluctuation land revenue or land revenue assessed on land subject to river action, the annual amount thereof shall be taken to be the average amount of land revenue paid during the three agricultural years preceding that in which the prescribed date falls;

"land records" means attested records of rights or attested annual records of rights maintained under Chapter IV of the Punjab Land Revenue Act, 1887, and includes an order finally sanctioning a mutation duly passed under that Chapter;

"agricultural year" means a year ending on the thirtieth day of September;

"owner" does not include a mortgagee;

"tenant" in relation to agricultural land means a tenant as defined in the Punjab Tenancy Act, 1887, contract, could be, liable to pay rent thereof, and in relation to a house not situate in military or police lines includes any person occupying the house rent free by virtue of any office, service or employment;

"zaildar," "inamdar," 'sufedposh" and lambardar" mean respectively persons appointed as such in accordance with rules for the time being in force under the Punjam Land Revenue Act, 1887, and do not include a substitute appointed temporarily for any such person.

(2) In computing for the purposes of this Part of this Schedule the period during which a person has owned any immovable property, any period during which it

was owned by a person from whom he derives title by inheritance shall be taken into account.

(3) Any reference to immovable property, not being land assessed to land revenue, includes a reference to any building situated on land assessed to land revenue.

(4) Where property is held or payments are made by, or assessments are made on, the members of a Hindu joint family, and the respective shares of the members of the family are not specified in the land records or in any municipal or cantonment record or in a decree of a civil court, as the case may be, the family shall be adopted as the unit for deciding whether the requisite qualification exists, and, if it does exist, the person qualified shall be the manager of the family.

(5) Subject to the provisions of the last preceding sub-paragraph, any reference in this Schedule to land assessed to land revenue, to other immovable property, to a tenancy or lease of land assessed to land revenue or to assigned land revenue shall in relation to any persons who are co-shares in such land, property, tenancy or lease, or land revenue, to construed as a reference to the respective shares of those persons:

Provided that the share of any person under the age of twenty-one years shall, if his father is alive and a co-sharer, be deemed to be added to the share of his father, and, if his father is dead and his eldest surviving brother is a co-sharer, be deemed to be added to the share of that brother.

(6) Not more than one person shall be qualified in respect of the occupation of a building occupied in common by two or more persons and any question which of those persons is to be qualified shall be determined in the prescribed manner.

PART VII.—*Bihar.*

General requirement as to residence.

1.—(1) No person shall be qualified to be included in the electoral roll for a territorial constituency unless he resides in the constituency.

(2) A person shall be deemed to reside within a constituency if he ordinarily lives therein, or has his family dwelling therein which he occasionally occupies, or maintains therein a dwelling-house ready for occupation which he occasionally occupies.

Qualifications dependent on taxation.

2. Subject to the provisions of Part I of this Schedule and to any overriding provisions of this Part of this Schedule, a person shall be qualified to be included in the electoral roll for a territorial constituency if he was assessed during the previous financial year to income tax or was, in the previous financial year, assessed to an aggregate amount of not less than one rupee eight annas in respect of municipal tax or is assessed, otherwise than in the Santal Parganas, to chaukidari tar of an annual amount of not less than nine annas [15][or, in the case of a member of the scheduled castes, of an annual amount of not less than six annas.]:

Provided that, in relation to the original preparation of electoral rolls and revisions thereof within three years from the commencement of Part III of this paragraph shall effect as if there were substituted for the reference to nine annas a reference to twelve annas.

Qualifications dependent on property.

3. Subject as aforesaid, a person shall also be qualified to be included in the electoral roll of any territorial constituency if he either—

(*a*) occupies land or buildings situate in the notified area of Jamshedpur in respect of which he is liable to pay an annual rent of not less than twenty-four rupees; or

15. *Inserted* by the India and Burma (Miscellaneous Amendments) Act, 1940 (34 Geo. 6, Ch. 5), Sch., Part I.

(*b*) holds land in the Province, not situated in the notified area of Jamshedpur or in area in which municipal tax or chaukidari tax is levied, for which he is liable to pay a rent of not less than six rupees per annum or a local cess of not less than three annas:

Provided that in relation to land within the Santal Parganas this paragraph shall have effect as if there were substituted for the reference to six rupees, in relation to the original preparation of electoral rolls and revisions thereof within three yars from the commencement of Part III of this Act, a reference to five rupees and thereafter a reference to three rupees eight annas.

Educational qualification.

4. Subject as aforesaid, a person shall also be qualified to be included in the electoral roll for any territorial constituency if he is proved, in the prescribed manner, to have passed the matriculation examination of any prescribed university or an examination not lower than a final middle school examination.

Qualification by reason of service in His Majesty's forces.

5. Subject as aforesaid, a person shall also be qualified to be included in the electoral roll for any territorial constituency if he is a retired, pensioned or discharged member of His Majesty's naval, military or air forces.

Additional qualification for women.

6. Subject as aforesaid, a person who is a woman shall also be qualified to be included in the electoral roll for any territorial constituency if she is the pensioned widow or the pensioned mother of a person who was a member of His Majesty's naval, military or air forces, or if her husband possesses the qualification requisite for the purposes of this paragraph, or if she is shown in the prescribed manner to be literate.

Provided that, in relation to the original preparation of electoral rolls and revision thereof within three years from the commencement of Part III of this Act, this paragraph shall have effect as if the words "if she is shown in the prescribed manner, to be literate" were omitted thereform.

7. A husband shall be deemed to posses the qualifications requisite for the purposes of the last preceding paragraph if—

(a) in the previous financial year he was assessed to income tax; or

(b) he is a retired, pensioned or discharged member of His Majesty's naval military or air forces.

(c) he was in the previous financial year assessed in the Province to an aggregate amount of not less than three rupees in respect of municipal tax; or

(d) he is assessed in the Province, otherwise than in the Santal Parganas, to an annual sum of not less than two rupees eight annas in respect of chankadimi tax; or

(e) he occupies land or buildings situate in the notified area of Jamshedpur in respect of which he is liable to pay rent of not less than twenty-four rupees per annum;

(f) he holds land in the Province, not situated in the notified area of Jamshedpur, or an area in which municipal tax or Chaukidari tax is levied, in respect of which he is liable to pay rent of not less than twenty-four rupees per annum or a local cess of not less than twelve annas.

Special provisions as to Muhammadan women's constituency.

8. No man shall be included in the electoral roll, or be entitled to vote at any election in, any Muhammadan constituency specially formed for the election of a person to fill the seat reserved for women.

Interpretation, etc.

9.—(1) In this Schedule, in relation to Bihar—

"municipal tax" means a tax or rate levied in a municipality constituted under the Bihar and Orissa Municipal Act, 1922, in an area in respect of which a notification has issued under section three hundred and eighty-eight of that Act, or in a cantonment, or in the area administered by the Patna Administration Committee;

'chaukidari tax" means any tax levied under the Village Chaukidari Act, 1870, the Chota Nagpur Rural Police Act, 1914, or section thirty of the Bihar and Orissa Village Administration Act, 1922.

(2) Where property is held or payments are made jointly by, or assessments are made jointly on, the members of a joint family, the family shall be adopted as the unit for deciding whether the requisite qualification exists and, if it does exists, the person qualified shall be, in the case of a Hindu joint family, the manager thereof, and, in other cases the member authorised in that behalf by the family themselves.

(3) Where property is held or payments are made jointly by, or assessments are made jointly on, persons other than the members of a joint family, all such person shall be regarded as a single person for deciding whether the requisite qualification exists, and if it does exist, then subject to the provisions of Part I of this Schedule and to any overriding provisions of this Part of this Schedule, one and one only of those persons shall be qualified and the person to be qualified shall be selected in the prescribed manner.

PART VIII.—THE CENTRAL PROVINCES AND BERAR.

General requirements as to residence.

1.—(1) No person shall be qualified to be included in the electoral roll for a territorial constituency unless, in the case of a rural constituency, he has a place of residence in the constituency, and, in the case of an urban constituency, he has a place of residence in, or within two miles from the boundary of, the constituency.

(2) For the purposes of this Part of this Schedule a person shall be deemed to have a place of residence in an area if and only if he either—

(a) has actually dwelt in a house within the area for not less than one hundred and eighty days in the aggregate during the previous financial year ; or

(b) has maintained a house within the area for an aggregate period of not less than one hundred and eighty days during the year as a dwelling for himself in charge of his dependants or servants, and has visited that house during that year.

Qualifications dependent upon taxation.

2. Subject to the provisions of Part I of this Schedule and to any overriding provisions of this Part of this Schedule, a person shall be qualified to be included in the electoral roll for a territorial constituency if in the previous financial year he either—

(a) was assessed to income-tax ; or

(b) was, in an urban area in the Province in which a municipal tax based on haisiyat is imposed, assessed to such a tax on a haisiyat of not less than seventy-five rupees.

Qualifilations dependent on property, etc.

3. Subject as aforesaid, a person shall also be qualified to be included in the electoral roll of a territorial constituency if he either—

(a) holds, in the Central Province, as a proprietor or thekadar, an estate or mahal the land revenue or kamil jama of which is not less than two rupees ; or

(b) holds, in the Central Provinces, as a proprietor or thekadar in proprietary

right, sir land or khud-kasht, or, as a malik mabuza, raiyat or tenant, agricultural land being sir land, khudkasht or agricultural land, the assessed or assessable land revenue or the rent of which is not less than two rupees; or

(c) holds, in Berar, in other than tenancy right, agricultural land of which the assessed or assessable land revenue is not less than two rupees; or

(d) is, in an urban area in the Province, the owner or tenant of a building, the annual rental value of which is not less than six rupees; or

(e) is a watander patel or a watandar patwari holding office, or a registered deshmukh or deshpandia or a lambardar.

Educational qualification.

4. Subject as aforesaid, a person shall also be qualified to be included in the electoral roll for any territorial constituency if he is proved, in the prescribed manner, to have passed an examination which qualifies for admission to a course of study for a degree of the Nagpur University, or an examination prescribed as at least equivalent thereto, or, if it is so prescribed, any other prescribed examination not lower than a final middle school examination :

Provided that, in relation to a constituency in Berar, the foregoing provisions of this paragraph shall be deemed to be complied with in relation to any person if he is proved in the prescribed manner to have passed any examination in the State of Hyderabed prescribed as at least equivalent to an examination the passing of which qualifies persons under those provisions.

Qualification by reason of service in His Majesty's forces and the forces of His Exalted Highness the Nizam of Hyderabad.

5.—(1) Subject as aforesaid, a person shall also be qualified to be included in the electoral roll for any territorial constituency if he is a retired, pensioned or discharged member of His Majesty's naval, military or air forces.

(2) Subject as aforesaid, a person shall also be qualified to be included in the electoral roll for any territorial constituency in Berar if he is a retired, pensioned or discharged officer, non-commissioned officer or soldier of the regular forces of His Exalted Highness the Nizam of Hyderabad, or a retired, pensioned or discharged officer or man of Hyderabad State Police.

Additional qualification for women.

6.—(1) Subject as aforesaid, a person who is a woman shall also be qualified to be included in the electoral roll for any territorial constituency—

(a) if she is the pensioned widow or pensioned mother of a person who was a member of His Majesty's naval, military or air forces.

(b) if she is proved in the prescribed manner to be literate or to be the holder of a primary school certificate; or

(c) if her husband possesses the qualification requisite for the purposes of this paragraph.

(2) Subject as aforesaid, a person who is a woman shall also be qualified to be included in the electoral roll for any territorial constituency in Bearer if she is the pensioned widow or pensioned mother of a person who was an officer, non-commissioned officer or soldier of the regular forces of His Exalted Highness the Nizam of Hyderabad, or an officer or man of the Hyderabad State of Police.

7.—(1) A husband shall be deemed to possess the qualifications requisite for the purposes of the last preceding paragraph if he either—

(a) is a retired, pensioned or discharged member of His Majesty's naval, military or air forces; or

(b) holds, in the Central Provinces, as a proprietor or thekadar, an estate or mahal the land revenue or kamil jama of which is not less than thirty-five rupees ; or

(c) holds, in the Central Provinces, as a proprietor or thekadar in proprietary right, sir land or khudkhast, or as a malik makbuza, raiyat or tenant, agricultural land, being sir land, khudkasht of agricultural land, the assessed or assessable land revenue or rent of which is not less than thirty-five rupees ; or

(d) holds, in Berar in other than tenancy right, agricultural land of which the assessed or assessable land revenue is not less than thirty-five rupees; or

(e) is, in an urban area, the owner or tenant of a building of which the annual value is not less than thirty-six rupees ; or

(f) was, in an urban area in which a municipal tax based on haisiyat is imposed, assessed in the previous financial year to such a tax on a haisiyat of not less than four hundred rupees.

(2) In relation to any territorial constituency in Berer, a husband shall also be deemed to possess the qualifications requisite for the purposes of the last preceding paragraph if he is a retired, pensioned or discharged officer, non-commissioned officer or soldier of the regular forces of His Exalted Highness the Nizam of Hyderabad, or a retired pensioned or discharged officer or man of the Hyderabad State Police.

Additional qualification for members of scheduled castes.

8. Subject as aforesaid, a member of a scheduled caste shall also be qualified to be included in the electoral roll for any territorial constituency if he is a kotwar, a jaglia. or a village mahar holding office.

Application necessary for enrolment in certain cases.

9. No person shall, by virtue of paragraph four of this Part of this Schedule, or by virtue of being a pensioned widow or mother. or of being literate or the holder of a primary school certificate, or of being the wife of [16][a member] of any force, be included in the electoral roll for any territorial constituency unless application is made in the prescribed manner by him or, if it is so prescribed, on his behalf, that he should be so included.

Interpretation, etc.

10.—(1) In the Schedule, in relation to the Central Provinces and Berar—

"building" means any structure or enclosure, whether used as a human dwelling or otherwise, and includes a part of a building;

"estate", "mahal", "malik makbuza", "kamil jama", "sir land" and "khudkasht" have the meanings respectively assigned to them in section two of the Central Provinces Land Revenue Act, 1917;

"estate or mahal" includes a part of an esaate or a mahal:

"lambardar" means a lambardar appointed under the provisions of the Central Provinces Land Revenue Act, 1917;

"land revenue" means land revenue as defined in section fifty-six of the Central Provinces Land Revenue Act, 1917, and in section forty-nine of the Berar Land Revenue Code; 1928;

[17]["municipal tax" means a tax imposed under the provisions of the Central Provinces Municipalities Act, 1922, or of that Act as applied to Berar.]

16. *Substituted* by the Indian Franchise Act, (9 Geo. 6, c. 2), s. 4 and Sch., Part I, para. 6.

17. *Inserted* by the India and Burma (Misctllaneous Amendments), Act, 1940 (3 & 4 Geo. 6, Ch. 5), Sch., Part. I.

"proprietor" includes an inferior proprietor and a plot proprietor, but does not include a transferee of proprietary rights in possession, or a mortgagee with possession;

"raiyat" means the holder of a survey number as defined in sub-section (18) of section two of the Central Provinces Land Revenue Act, 1917, and includes the holder of land recorded in the land records maintained by the Provincial Government as milkiyat sarkar;

"registered deshmukh or deshpandia" means a person, being a deshmukh or deshpandia, whose name is recorded in the registers of political pensions maintained by the Deputy Commissioners in Berar as the holder of a pension or share of a pension;

"rental value," in relation to immovable property, means the amount for which the property, together with its appurtenances and furniture, if any, is actually let, or may reasonably be expected to be let, from year to year;

"tenant," in relation to agricultural land, means a tenant as defined in sub-section (11) of section two of the Central Provinces Tenancy Act. 1920, but does not include a sub-tenant, and in relation to a house not situate in military or police lines includes any person occupying the house rent free by virtue of any office, service or employment;

"thekadar" includes a gaontia and a protected headman;

"hold" in relation to land or an estate or mahal, means to be recorded in the records maintained under Chapter V of the Central Provinces Land Revenue Act, 1917, or Chapter X of the Berar Land Revenue Code, 1928, or in the case of the Melghat Taluq of the Amraoti District, in the land records prescribed by the Provincial Government, as the person in possession of the land, estate or mahal;

"urban area" means a municipality, notified area or cantonment, and includes the Government gun carriage factory estate of Jubbulpore and any prescribed railway settlements;

"watandar patel" and "watandar patwari" means respectively a patel and a patwari appointed under section five of the Berar Patels and Patwaris Law, 1900.

(2) For the purposes of this Part of this Schedule ante-alienation tenants as defined in section seventy-two of the Berar Land Revenue Code, 1928, and section forty of the Berar Alienated Villages Tenancy Law, 1921, permanent tenant as defined in section forty-seven of the Berar Alienated Villages Tenancy Law, 1921, and tenants of antiquity as defined in section seventy three of the Berar Land Revenue Code, 1928, shall be deemed to hold agricultural land in other than tenancy right.

(3) Subject to the provisions of the next succeeding sub-paragraph, the provisions of this Part of the Schedule shall have effect in relation to any persons who are co-sharers in, or in a tenancy or lessee of, land or other immovable property as if the respective shares of those persons in the land property, tenancy or lease were held separately.

(4) Where property is held or payments are made jointly, by the members of a joint family or a tax is assessed jointly on the members of a joint family, the family shall be adopted as the unit for deciding whether the requisite qualification exists, and if it does exist, the person qualified shall be, in the case of a Hindu joint family, the manager thereof, and in other cases the member authorised in that behalf by the family themselves.

(5) Any reference in this Part of the Schedule to a retired, pensioned or discharged officer or man of the Hyderabad State Police shall be deemed not to include a reference to any person who has been dismissed or discharged from the police for disciplinary reasons.

PART IX.—ASSAM.

General requirements as to residence.

1. No person shall be qualified to be included in the electoral roll for a territorial constituency unless he has a place of residence in the constituency, and a person shall be deemed to have a place of residence in a constituency and occasionally occupies it:

Provided that in relation to the European constituency the provisions of this paragraph shall be deemed to be complied with in relation to any person if he is actually employed anywhere in Assam but is absent from Assam on leave from his employment.

Qualifications dependent upon taxation.

2. Subject to the provisions of Part I of this Schedule and to any overriding provisions of this Part of this Schedule, a person shall be qualified to be included in the electoral roll for any territorial constituency if, in the previous fiancial year, he either—

(*a*) was assessed to income-tax; of

(*b*) was in the constituency assessed in respect of municipal or cantonment rates or taxes to an aggregate amount of not less than two rupees or, in the Sylhet municipality, of not less than one rupees eight annas, or to a tax of not less than one rupee in a Small Town, or, in the district of Sylhet, the district of Cachar or the district of Goalpara, to a tax of not less than eight annas under the Village Chaukidari Act, 1870.

Qualifications dependent on property.

3. Subject as aforesaid, a person shall also be qualified to be included in the electoral roll for any territorial constituency if, in the constituency, he either—

(*a*) is the owner of land revenue on which has been assessed or is assessable at not less than seven rupees eight annas per annum; or

(*a*) is the owner of land the land revenue on which has been assessed or is assessable at not less than seven rupees eight annas per annum; or

(*b*) is liable to pay a local rate of not less than eight annas per annum; or

(*c*) throughout the previous financial or previous Bengali year held from a landlord land in any of the following districts, that is to say, Lakhimpur, Sibsagar, Oarrang, Nowgong or Kamrup or in the Garo Hills, and paid to the landlord rent to the value of not less than seven rupees eight annas in respect of that land:

Provided that for the purposes of this paragraph land situate, and local rates levied, in the districts of Sylhet, Cachar and Goalpara shall be left out of account.

Educational qualification.

4. Subject as aforesaid, a person shall also be qualified to be included in the electoral roll for any territorial constituency if he is proved in the prescribed manner to have passed the middle school leaving certificate examination or any other examination prescribed or at least equivalent thereto.

Qualification by reason of service in His Majesty's forces.

5. Subject as aforesaid, a person shall also be qualified to be included in the electoral roll for any territorial constituency if he is a retired, pensioned or discharged member of His Majesty's naval, military or air forces or the Assam Rifles.

Additional qualification for women.

6. Subject as aforesaid, a person who is a woman shall also be qualified to be included in the electoral roll for any territorial constituency if she is the pensioned widow of pensioned mother of a person who was a member of His Majesty's naval, military or air forces or the Assam Rifles, or if she is proved in the prescribed manner

to be literate, or if her husband possesses the qualifications requisite for the purposes of this paragraph.

7. A husband shall be deemed to possess the qualification requisite for the purposes of the last preceding paragraph if he—

(*a*) is a retired, pensioned or discharged member of His Majesty's naval, military or air forces or the Assam Rifles; or

(*b*) was in the previous financial year assessed to income-tax; or

(*c*) was in the previous financial year assessed in the constituency in respect of municipal or cantonment rates or taxes—

(i) in the Nowgong municipality, to not less than two rupees; or

(ii) in the Sylhet municipality, to not less than one rupee eight annas; or

(iii) elsewhere in the Province, to not less than three rupees; or

(*d*) was in the constituency assessed in the previous financial year to a tax of not less than one rupee in a Small Town; or

(*e*) was in the constituency assessed in the previous financial year in the district of Sylhet, the district of Cachar or the district of Goalpara to a tax of not less than one rupee under the Village Chaukidari Act, 1870; or

(*f*) elsewhere than in the said districts, is the owner of land in the constituency, rupees per annum; or

(*g*) is liable to pay a local rate in the constituency of not less than one rupee per annum.

Application necessary for enrolment in certain cases.

8. No person shall, by virtue of paragraph six of this Part of this Schedule, be included in the electoral roll for any territorial constituency unless application is made in the prescribed manner by her, or if it is so prescribed, on her behalf, that she should be so included:

Provided that, except in relation to the original preparation of electoral rolls and revisions thereof within three years from the comfencement of Part III of this paragraph shall, in relation to women, qualified by virtue of their husbands' qualifications, have effect only where the husband's qualification is that mentioned in paragraph (*a*) of paragraph seven of this Part of this Schedule.

Special provisions as to seat reserved for women.

9. The following provisions shall have effect in relation to any constituency specially formed for the section of persons to fill the seat reserved for women—

(*a*) no man shall be included in the electoral roll for the constituency, or be entitled to vote at any election therein.....[18]:

[19][*Special Provisions as to Shillong.*

9A. In the case of any territorial constituency comprising any part of Shillong, any reference in this Part of this Schedule to 'the constituency' shall be construed as including a reference to so much of the areas under the jurisdiction of the Shillong Municipal Board and the Shillong Cantonment Authority as is not part of British India, and any reference to municipal or cantonment rates or taxes shall be construed as including a reference to any such rates or taxes assessed by, or paid to, that Board or that Authority in the exercise of any jurisdiction exercised by them in relation to areas outside British India.]

18. Sub-para. (*b*) was *omitted* by the India and Burma (Miscellaneous Amendments) Act, 1940 (3 & 4 Geo. 6, ch. 5), Sch, Part I.

19. *Inserted* by the India and Burma (Misctllaneous Amendment) Act, 1940 (3 & 4 Geo. 6, c. 5, Sch., Part I.

Special provisions as to backward areas and backward tribes.

10. No person who is entitle to vote in the election of a person to fill any of the seats to be filled by representatives of backward areas or backward tribes, or is entitled to be included in the electoral roll for any constituency formed for the purpose of filling any such seat, shall be included in the electoral roll for any territorial constituency formed for the purpose of filling any such seat, shall be included in the electoral roll for any territorial constituency in the province, other than any constituency specially formed for the election of persons to fill the seat reserved for women.

Interpretation, etc.

11.—(1) In this Schedule, in relation to Assam—

"Small Town" means a notified area constituted under Chapter XII of the Assam Municipal Act I of 1923:

"Bengali year" means a year ending on the last day of the Bengali month of Chaitra;

"local rate" means the local rate assessed under the Assam Local Rates Regulation, 1879;

"landlord" means a person under whom another holds land immediately, but does not include the Government;

"rent" includes rent in kind or partly in kind.

(2) Where property is held or payments are made jointly by or assessments are made jointly by, or assessmens are made jointly on, the members of a joint family, the family shall be adopted as the unit for deciding whether the necessary qualification exists, and if it does exist the person qualified shall be, in the case of a Hindu joint family, the manager thereof and in other cases the member authorised in that behalf by the family themselves.

Provided that any other member of any such family shall also be qualified if the proportions of the joint property, payment or assessment which corresponds with his share therein would be sufficient for him to be qualified if he held it separately.

PART X.—THE NORTH-WEST FRONTIER PROVINCE.

General requirements as to residence.

1. No person shall be qualified to be included in the electoral roll for any territorial constituency unless he is resident in the constituency.

For the purposes of this Part of this Schedule proof that a person or, in the case of a woman, her husband owns a family dwelling-houst or a share in a family dwelling-house in a constituency and that house has not during the twelve months preceding the prescribed date-been let on rent either in whole or in part shall be sufficient evidence that that person is resident in the constituency.

Qualifications dependent upon taxation.

2. Subject to the provisions of Part I of this Schedule and to any overriding provisions of this Part of this Schedule, a person shall be qualified to be included in the electoral roll for any territorial constituency if during the previous financial year, he was either—

(*a*) assessed to income-tax; or

(*b*) assessed in the Province in respect of any direct municipal or cantonment tax to an amount or not less than fifty rupees; or

(*c*) in the case of a rural constituency, assessed to district board tax of not less than two rupees.

Qualification dependent on rights in property, etc.

3. Subject as aforesaid, a person shall also be qualified to be included in the electoral roll for any territorial constituency if, in the Province, he either—

(*a*) owned throughout the twelve months preceding the prescribed date immovable property of the value of not less than six hundred rupees, not being land revenue; or

(*b*) has for the twelve months preceding the prescribed date occupied as a tenant immovable property of an annual rental value of not less than forty-eight rupees, not being land assessed to land revenue; or

(*c*) is the owner of not less than six acres irrigated land or not less than twelve acres unirrigated land or of land assessed to land revenue of not less than five rupees per annum;

(*d*) is the assignee of land revenue amounting to not less than ten rupees per annum; or

(*e*) has been for the whole of the preceding fasli year the tenant of not less than six acres of irrigated land or not less than twelve acres unirrigated land; or

(*f*) is a zaildar, inamdar or lambardar:

Provided that for the purposes of sub-paragraph (*c*) and sub-paragraph (*e*) of this paragraph a person shall be deemed to own or, as the case may be, to have been the tenant of, at least six acres of irrigated land if he owns, or as the case may be was the tenant of, irrigated and unirrigated land and the sum of the area of that irrigated land and half the area of that unirrigated land is not less than six acres.

Educational qualification.

4. Subject as aforesaid, a person shall also be qualified to be included—

(*a*) in the electoral roll for any urban constituency, if he is proved in the prescribed manner to have passed a middle school examination or any other examination prescribed as at least equivalent to that examination;

(*b*) in the electoral roll for a rural constituency, if he is proved in the prescribed manner to have passed the primary (fourth class) examination or any other examination prescribed as at least equivalent to that examination.

Qualification by reason of service in His Majesty's forces.

5. Subject as aforesaid, a person shall also be qualified to be included in the electoral roll for any territorial constituency if he is a retired, pensioned or discharged member of His Majesty's naval, military or air forces.

Additional qualification for women.

6. Subject as aforesaid, a person who is a woman shall also be qualified to be included in the electoral roll for any territorial constituency if she is the pensioned widow or the pensioned mother of a person who was a member of His Majesty's naval, military or air forces, or if her husband possesses the qualifications requisite for the purposes of this paragraph or if she is shown in the prescribed manner to be literate:

Provided that, in relation to the original preparation of electoral rolls and revisions thereof within three years from the commencement of Part III of this Act, this paragraph shall have effect as if the words "or if she is shown in the prescribed manner to be literate" were omitted therefrom.

7. A husband shall be deemed to possess the qualifications requisite for the purposes of the last preceding paragraph if either—

(a) he is a retired, pensioned or discharged member of His Majesty's naval, military or air forces.

(*b*) he has an income of at least forty rupees per month; or

(*c*) he was during the previous financial year assessed to income-tax; or

(*d*) in relation to an urban constituency, he was, during the previous financial year, assessed in the Province in respect of any direct municipal or cantonment tax to an amount of not less than fifty rupees; or

(*e*) in relation to a rural constituency, he was during the preceding financial year assessed in the Province in respect of any cess, rate or tax to an amount of not less than four rupees per annum payable to the district board; or

(*f*) he owned throughout the twelve months preceding the prescribed date immovable property in the Province of the value of not less than six hundred rupees, not being land assessed to land revenue; or

(*g*) he occupied as a tenant throughout the twelve months preceding the prescribed date immovable property in the Province of an annual rental value of not less than forty-eight rupees, not being land assessed to land revenue; or

(*h*) he is the owner of land in the Province assessed to land revenue of not less than ten rupees per annum; or

(*i*) he is an assignee of land revenue in the Province amounting to not less than twenty rupees per annum; or

(*j*) he is a tenant or leasee, under the terms of a written lease for a period of not less than three years, of land in the Province assessed to land revenue of not less than ten rupees per annum; or

(*k*) he is a tenant with a right of occupancy, as defined in Chapter II of the Punjab Tenancy Act, 1887, in respect of land in the Province assessed to land revenue of not less than ten rupees per annum.

Application necessary for enrolment in certain cases.

8. No person shall, by virtue of paragraph four or paragraph six of this Part of this Schedule, be included in the electoral roll for any territorial constituency unless application is made by him in the prescribed manner that he should be so included.

Interpretation, etc.

9.—(1) In this Schedule, in relation to the North-West Frontier Province—

"annual rental value," in relation to immovable property, means the amount for which the property together with its appurtenances and furniture, if any, is actually let, or may reasonably be expected to be let, from year to year;

"fasli year" means a year ending on the thirtieth day of September;

"land revenue" means land revenue as defined in sub-section (6) of section three of the Punjab Land Revenue Act, 1887, and. in the case of fluctuating land revenue or land revenue assessed on land subject to river action, the annual amount thereof shall be taken to be the average amount paid during the three years preceding the prescribed date;

"zaildar," "inamdar" and "lambardar" mean respectively persons appointed as such in accordance with rules for the time being in force under the Punjab Land Revenue Act, 1887, and do not include a substitute appointed temporarily for any such person;

"tenant" in relation to agricultural land means a tenant as defined in the Punjab Tenancy Act, 1887, and in relation to other property, means a person who holds that property by lease and is or, but for a special contract, would be, liable to pay rent therefor, and in relation to a house not situate in military or police lines includes any person occupying the house rent free by virtue of any office, service or employment.

(2) In computing for the purposes of this Part of this Schedule the period

during which a person has owned any immovable property, any period during which it was owned by a person from whom he derives title by inheritance shall be taken into account.

(3) Any reference to immovable property, not being land assessed to land revenue, includes a reference to any building situated on land assessed to land revenue.

(4) Where property is held or payments are made, jointly by, or assessments are made jointly on, the members of a joint family, the family shall be adopted as the unit for deciding whether the requisite qualification exists and, if it does exist, the person qualified shall be, in the case of a Hindu joint family the manager thereof, and in other cases the member authorised in that behalf by the family themselves.

(5) Subject to the provisions of the last preceding sub-paragraph, any reference in this Schedule to land assessed to land revenue, to other immovable property, to a tenancy or lease of land assessed to land revenue or to assigned land revenue, shall in relation to any persons who are co-sharers in such land, property, tenancy or lease, or land revenue, he construed as a reference to the respective shares of those persons :

Provided that the share of any person under the age of twenty-one year shall, if his father is alive and a co-sharer, be deemed to be added to the share of his father, and, if his father is dead and his eldest surviving brother is a co-sharer, be deemed to be added to the share of that brother.

PART XI [18].—ORISSA.

General requirements as to residence.

1. No person shall be qualified to be included in the electoral roll for a territorial constituency unless he is resident in the constituency, and a person shall be deemed to be resident within a constituency if he ordinarily lives therein or has his family dwelling therein which he occasionaly occupies, or maintains therein dwelling-house ready for occupation which he occasionally occupies.

Qualifications applicable to all territorial constituencies.

2. Subject to the provisions of Part I of this Schedule and to any overriding provisions of this Part of this Schedule, a person shall be qualified to be included in the electoral roll for any territorial constituency if in the previous financial year he was assessed to income-tax, or was assessed to an aggregate amount of not less than one rupee, eight annas, in respect of municipal taxes.

3. Subject as aforesaid, a person shall also be qualified to be included in the electoral roll for any territorial constituency if he is proved, in the prescribed manner, to have passed the matriculation examination of any prescribed university or an examination prescribed as at least equivalent to any such examination, or if it is so prescribed any other prescribed examination not lower than a final middle school examination.

4. Subject as aforesaid, a person shall also be qualified to be included in the electoral roll for any territorial constituency if he is a retired, pensioned or discharged member of His Majesty's naval, military or air forces.

5. Subject as aforesaid, a person who is a woman shall also be qualified to be included in the electoral roll for any territorial constituency—

(a) if she is the pensioned widow or pensioned mother of person who was a member of His Majesty's naval, military or air forces.

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20. In this part, references to the Vizagapatam district, the sub-division of Angul and Khondmals subdivision shall be *construed* as references to the Koraput district, the Angul district and the Khondmals district *respectively*. [Government of India (Provincial Legislative Assemblies) Order, 1936, Part XI, para. 4].

(*b*) if her husband either is a retired, pensioned or discharged member of His Majesty's naval, military or air forces, or in the previous financial year was assessed to income-tax or to an gggregate sum of not less than three rupees in respect of municipal taxes; or

(*c*) if she is shown in the prescribed manner to be literate:

Provided that, in relation to the orginal preparation of electoral rolls and revisions thereof within three years from the commencement of Part III of this Act, this paragraph shall have effect as if sub-paragraph (*c*) were omitted therefrom.

Special provisions as to the districts, of Cuttack, Puri, Balasore and [21][* * *] *Angul.*

6. Subject as aforesaid, a person shall also be qualified to be included in the electoral rolls for a constituency situated wholly or partly in the districts of Cuttack, Puri and Balasore and [21][* * * *] Angul if he either—

(*a*) is assessed to chaukidari tax of an annual amount of not less than nine annas [22][or, in the case of a member of the scheduled castes, of not less than six annas]; or

(*b*) holds land in the Province, not situated in a municipality or an area in which chaukidari tax is levied, for which he is liable to pay rent or land revenue of not less than two rupees per annum or a local cess of not less than one anna:

Provided that, in relation to the original preparation of electoral rolls and revisions thereof within three years from the commencement of Part III of this Act, this paragraph shall have effect as if there were substituted for the reference to nine annas a reference to twelve annas.

7. Subject as aforesaid, a person who is a woman shall also be qualified to be included in the electoral roll for any such constituency as is mentioned in the last preceding paragraph if she is the wife of any person who either—

(*a*) is assessed to chaukidari tax of an annual amount of not less than two rupees, eight annas; or

(*b*) holds land in the Province, not situated in a municipality or in an area in which chaukidari tax is levied, for which he is liable to pay rent or land revenue of not less than sixteen rupees per annum or local cess of not less than eight annas.

Special provisions as to the districts of Ganjam, [23][*Koraput and Khondmals*].

8. Subject as aforesaid, a person, not being a member of a backward tribe, shall also be qualified to be included in the electoral roll for a constituency situated wholly or partly in the districts of Ganjam [22][Koraput and Khoudmals]—

(a) if [23][in any of those districts] he holds land, not situate in a municipality, in respect of which he is liable to pay rent or land revenue of not less than two rupees per annum; or

[24][(*b*) if he is a member of scheduled castes and is a village servant, hereditary or not; or]

[25][(*c*) without prejudice to the generality of the foregoing provisions, if, being a woman, she is the wife of a person who [25][in any of those districts] holds land revenue of not less than sixteen rupees per annum.

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21. The words "the sub-division of" were *omitted* by the India and Burma (Miscellaneous Amendments) Act, 1940 (3 & 4 Geo. VI, C. 5), Sch., Part I.
22. *Inserted, ibid.*
23. *Substituted* by the India and Burma (Miscellaneous Amendments) Act, 1940 (3 & 4 Geo. VI, C. 5), Sch., Part I, for 'and Vizagapatam and the Khondmals sub-division".
24. *Substituted, ibid.*, for "and Vizagapatam or in the Khondmals sub-division"
25. *Substituted, ibid.*, for "in either of those districts or in that sub-division".
26. *Inserted, ibid.*
27. *Re-lettered, ibid.*, for "(*b*)".

Special provision as to the district of Sambalpur.

9. Subject as aforesaid, a person shall be qualified to be included in the electoral roll for any constituency situated wholly or partly in the district of Sambalpur if, in that district, he either—

(*a*) holds land, not situated in a municipality or a sanitation area, for which he is liable to pay rent or land revenue of not less than one rupee per annum or village cess of not less than one anna; or

(*b*) is in occupation of a house for which he is liable to pay rent of not less six rupees per annum, not being a house in a municipality or sanitation area; or

(*c*) is assessed to an annual tax of at least twelve annas under the Central Provinces Sanitation Act, 1902, or the Central Province Village Sanitation and Public Management Act, 1920; or

(*d*) is a village servant holding office as a jhankar, gands, kotwar, jagaliā or mahar, and holds land recorded in the record of rights as service land:

Provided that, in relation to the original preparation of electoral rolls and revisions thereof within three years from the commencement of Part III of this Act, this paragraph shall have effect as if for the references in sub-paragraph.

(*a*) thereof to one rupee and one anna there were substituted respectively references to two rupees and two annas.

10. Subject as aforesaid, a person who is a woman shall also be qualified to be included in the electoral roll for a constituency situated wholly or partly in the district of Sambalpur if she is the wife of a person who, in that district, either—

(a) holds land not situated in a municipality or a sanitation area, for which he is liable to pay rent or land revenue of not less than sixteen rupees per annum or villagecess of not less than eight annas; or

(*b*) is in occupation of a house for which he is liable to pay an annual rent of not less than thirty rupees, not being a house in a municipality or sanitation area; or

(*c*) is assessed to an annual tax of not less than ten rupees under the Central Provinces Sanitation Act, 1902, or the Central Provinces Village Sanitation and Public Management Act, 1920.

Interpretation, etc.

11.—(1) In this Schedule, in relation to Orissa—

"backward tribe" has the same meaning as in the Fifth Schedule to this Act;

"municipality" means an area constituted a municipality under the Bihar and Orissa Municipal Act, 1922, or the Madras District Municipalities Act, 1920, or an area in respect of which a notification has issued under section three hundred and eighty-eight of the Bihar and Orissa Municipal Act, 1922;

"municipal tax" means a tax or rate levied in a municipality;

"sanitation area" means an area administered under the Central Provinces Village Sanitation Act, 1922, or the Central Provinces Village Sanitation and Public Management Act, 1920;

"chaukidari tax" means a tax levied under the Village Chaukidari Act, 1870, under section thirty of the Bihar and Orissa Village Administration Act, 1922, or under section forty-seven of the Angul Laws Begulation, 1913.

(2) Where property is held or payments are made jointly by, or assessments made jointly on, the members of a joint family, the family shall be adopted as the unit for deciding whether the requisite qualification exists, and if it does exist the person qualified shall be, in the case of a Hindu joint family, the manager thereof, and in other cases the member authorised in that behalf by the family themselves.

(3) Where property is held or payments are made jointly by, or assessments are made jointly on, persons other than the members of a joint family, all such persons shall be regarded as a single person for deciding whether the requisite qualification exists, and if it does exist, then subject to the provisions of Part I of this Schedule and to any overriding provisions of this Part of this Schedule one and one only of those persons shall be qualified, and the persons to be qualified shall be selected in the prescribed manner.

PART XII.—SIND.

General requirements as to residence.

1. No person shall be qualified to be included in the electoral roll for a territorial constituency unless he satisfies the requirement as to residence in relation to that constituency.

For the purpose of this Part of this Schedule a person shall be deemed to satisfy the reqquirement as to residence—

(a) in relation to an urban constituency, if he has for a period of not less than one hundred and eighty days in the previous financial year resided in a house in the constituency or within two miles of the boundary thereof ;

(b) in the case of a rural constituency, if he for a period of not less thna one hundred and eighty days in the previous financial year resided in a house in the constituency or in a contiguous constituency of the same communal description :

Provided that a person shall be deemed to satisfy the requirement as to residence in relation to any European territorial constituency if he has, for a period of not less than one hundred and eight days in the previous financial year, resided in a house in the Province.

A person is deemed to reside in a house if he sometimes uses it as a sleeping place, and a person is not deemed to cease to reside in a house merely because he is absent from it, or has another dwelling in which he resides, if he is at liberty to return to the house at any time and has not abandoned his inttntion of returning.

Qualifications dependent on taxation.

2. Subject to the provisions of Part I of this Schedule and to any overriding provisions of this Part of this Schedule, a person shall be qualified to be included in the electoral roll for any territorial constituency, if he was assessed during the previous financial year to income-tax.

Qualifications dependent on property.

3. Subject as aforesaid, a person shall also qualified to be included in the electoral roll for any territorial constituency if he—

(a) holds in his own right or occupies as a permanent tenant or as a lesse from the Government alienated or unalienated land in the constituency on which, in any one of the five revenue years preceding that in which the prescribed date falls. an assessment of not less than eight rupees land revenue has been paid or would have been paid if the land had not been alienated ; or

(b) cultivates, as a Hari [28][or occupies as a tenant] alienated or unalienated land in the constituency on which in the revenue year preceeding that in which the prescribed date falls an assessment of not less than sixteen rupees land revenue has been leviable, or would have been leviable if the land had not been alienated ; or

(c) is the alienee of the right of the Government to the payment of rent or land revenue amounting to not less than eight rupees in respect of alienated land in the constituency; or

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28. *Inserted* by the India and Burma (Miscellaneous Amendments) Act, 1940 (3 & 4 Geo. 6, Ch. 5), Sch., Part I.

(b) occupies as owner or tenant in the constituency a house or building situate in the city of Karachi or in any municipal borough, municipal district, cantonment or notified area, and having at least the appropriate value.

Where land is cultivated by more than one Hari, only one Hari for every sixteen rupees of land revenue shall be treated as qualified under sub-paragraph (b) of this paragraph in respect of that land, and any question which of several Haris shall be qualified under this paragraph in respect of any land shall be determined in the prescribed manner.

In sub paragraph (d) of this paragraph, the expression "the appropriate value" means—

(i) in relation to a house or building situate within the city of Karachi, an annual rental value of thirty rupees;

(ii) in relation to a house or building situate outside the city of Karachi but in an area in which a tax is based on the annual rental value of house or building, an annual rental value of eighteen rupees;

(iii) in relation to any other house or building, a capital value of seven hundred and fifty rupees.

Educational qualification.

4. Subject as aforesaid, a person shall also be qualiged to be included in the electoral roll for any territorial constituency if he is proved in the prescribed manner to have passed the matriculation or school leaving examination of the university of Bombay or an examination prescribed as at least equivalent to either of those examinations or, if it is so prescribed, any other prescribed examination, not being lower than a vernacular final examination.

Qualification by reason of service in His Majesty's forces.

5. Subject as aforesaid, a person shall also be qualified to be included in the electoral roll for any territorial constituency, if he is a retired, pensioned or discharged member of His Majesty's naval or air forces.

Additional qualification for women.

6. Subject as aforesaid, a person who is a women shall also be qualified to be included in the electoral roll for any territorial constituency, if she is the pensioned widow or the pensioned mother of a person who was a member of His Majesty s naval, military or air forces, or if she is proved in prescribed manner to be literate or if her husband possesses the qualifications requisite for the purposes of this paragraph.

7. A husband shall not be deemtd to possess the qualifications requisite for the purposes of the last preceding paragraph unless he satisfies the requirement as to residence in relation to the constituency in question but, subject as aforesaid a husband shall be deemed to possess the said qualifications if he —

(*a*) was in the previous financial year assessed to income-tax; or

(*b*) is a retired, pensioned or discharged member of His Majesty's naval, military or air forces or,

(*c*) holds in his own riyht or occupies as a permanent tenant or as a lessee from the Government alienated or unalienated land in the constituency on which in any one of the five revenue years preceding that in which the prescribed date falls, an assessment of, land revenue amounting, in the Upper Sind Frontier district, to not less than sixteen rupees, and, elsewhere, to not less than thirty-two rupees, has been paid, or would have been paid if the land had not been alienated; or

(*d*) is the alience of the right of the Government to the payment of rent or land land revenue in respect of alienated land in the constituency, amounting, in the Upper Sind Frontier district, to not less than sixteen rupees, and, elsewhere, to not less than thirty-two rupees; or

(*e*) occupies as owner or tenant in the Constituency a house or building situate in the city of Karachi or in a municipal borough, municipal district, cantonment or notified area, and having at least the appropriate value.

In sub-paragraph (*e*) of this paragraph, the expression 'appropriate value" means—

(i) in relaaion to a house or building within the city of Karachi, as annual rental value of sixty rupees;

(ii) in relation to a house or building situate in any other area in which any tax is based on the annual rental value of houses or buildings, an annual rental value of houses or buildings, an annual rental value of thirty-six rupees: and

(iii) in relation to any other house or building, a capital value of one thousand five hundred rupees.

8. No person shall be virtue of paragraph four or paragraph six of this Part of this Schedule be included in the electoral roll for any territorial constituency unless application is made in the prescribed manner by him, or, if it is so prescribed, on his behalf that he should be so included.

Provisions as to joint property, etc.

9.—(1) Subject to the provisions of this paragraph, and reference in this Part of this Schedule to land or other immovable property, or to rent or land revenue in respect of alienated land, shall, in relation to any persons who are co-sharers in such land, property, rent or land revenue, be construed as a reference to the respective shares of those persons.

Application necessary for enrolment in certain cases.

(2) Where two or more persons occupy any house, the rental value of the house shall, in relation to each of those persons, be deemed to be the rental value thereof divided by the number of those persons.

(3) Where property is owned, held or occupied, or payments are made, jointly by, or assessments are made jointly on the members of a joint family, and the property, payments or assessments would qualify a person if they had been owned, held, occupied or made by or on him solely, then, subject to the provisions of Part I of this Schedule and to any overriding provisions of this Part of this Schedule, one member of the family shall be qualified in respect of the property, poyment or assessment, and that person shall be, in the case of a Hindu joint family, the manager thereof and in other cases the member authorised in that behalf by the family themselves.

Save as aforesaid any property owned, held or occupied or payments made jointly by, or assessments made jointly on, the membtrs of a joint family, shall be left out of account for the purposes of this Part of this Schedule.

(4) Nothing in this paragraph affects the provisions of Part I of this Schedule relating to partners in firms assessed to income-tax or the provisions of this Part of this Schedule relating to Haris.

Interpretation, etc.

10.—(1) In this Schedule, in relation to Sind—

"tenant" means a lessee whether holding under an instrument or under an oral agreement, and includes a mortgagee of a tenant's rights with possession, and, in relation to a house not situate in military or police lines, also includes any person occupying the house rent free by virtue of any office, service or employment;

"holder" means a person lawful in possession of land, whether his possession is actual or not, and "hold" shall be construed accordingly.

(2) The value of any machinery, furniture or equipment contained in or situate upon any house or building shall not be included in estimating for the purposes of this Part of this Schedule the rental value or the capital value of the house or building.

(3) In computing for the purposes of this Part of this Schedule the assessable value of any land, regard shall be had to the average rate of assessment on assessed land in the same village or, if there is no such land in the same village, the average rate of assessment on assessed land in the nearest village containing assessed land.

SEVENTH SCHEDULE.[1]

(Sections 100, 104).

Legislative Lists.

LIST I.—FEDERAL LEGISLATIVE LIST.

[1a]1. His Majesty's naval, military and air forces borne on the Indian establishment and any other armed force raised in India by the Crown, not being forces raised for employment in Indian States or military or armed police maintained by Provincial Governments; any armed forces which are not forces of His Majesty, but are attached to or operating with any of His Majesty's naval, military or air forces borne on the Indian establishment: central intelligence bureau; preventive detention in British India for reason of State connected with defence, external affairs, or the discharge of the functions of the Crown in its relations with Indian States.

2. Naval, military and air force works; local self-government in cantonment areas [1b](not being cantonment areas of India State troops), [2][the constitution and powers within such areas of cantonment authorities] the regulation of house accommodation in such areas, and within [1b][British India], the delimitation of such areas.

3. External affairs; the implementing of a reaties and agreements with other countries; extradition including the surrender of criminals and accused persons to parts of His Majesty's dominions outside India.

4. Ecclesiastical affairs, including European cemetaries.

5. Currency, coinage and legal tender.

6. Public debt of the Federation.

7. Posts and telegraphs, including telephones, wireless, broadcasting, and other like forms of communication; Post Office Savings Bonk.

8. Federal Public Services and Federal Public Service Commission.

9. Federal pensions, that is to say, pensions payable by the Federation or out of Federal revenues.

10. Works, lands and buildings vested in, or in the possession of His Majesty for the purposes of the Federation (not being naval, military or air force works), but, as regards property situate in a Province, subject always to Provincial legislation, save in so far as Federal law otherwise provides, and, as regards property in a Federated State held by virtue to any lease or agreement with that State, subject to the terms of that lease or agreement.

11. The Imperial Library, the Indian Museum, the Imperial War Museum, the Victoria Memorial, and any similar institution controlled or financed by the Federation.

12. Federal agencies and institutes for the following purposes, that is to say, for research, for professional or technical training, or for the promotion of special studies. for research, for professional or technical training, or for the promotion of special studies.

13. The Benares Hindu University and the Aligarh Muslim University.

14. The Survey of India, the Geological, Botanical and Zoological Surveys of India; Federal meteorological organisation.

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1. This Schedule, came into force on 1-4-1937—*See* the Government of India (Commencement and Transitory Provisions) Order, 1936, para. 3.

1a. Substituted, by the India (Provisional Constitution) Order, 1947, as follows:
"1. The naval, military and air forces of the Dominion and any other armed forces raised or maintained by the Dominion; and armed forces which are not forces of the Dominion but are attached to or operating with any of the armed forces of the Dominion; central intelligence bureau; preventive detention for reasons of State connected with defence or external affairs."

1b. Omitted, by *ibid.*

2. *Inserted* by the India and Burma (Miscellaneous) Amendments Act, 1940 (3 & 4 Geo. VI, Ch. 5), S. 3.

15. Ancient and historical monuments; archaeological sites and remains.

16. Census.

17. Admission into, and emigration and expulsion from, India, including in relation thereto the regulation of the movements in India of persons who are not British subjects domiciled in India[2a], subjects of any Federated State, [2b][or British subjects domiled in the United Kingdom]; pilgrimages to places beyond India.

18. Port quarantine; seamen's and marine hospitals, and hospitals connected with port quarantine.

19. Import and export across customs frontiers as designed by the Federal Government.

20. Federal railway; the regulation of all railways other than minor railways in respect of safety, maximum and minimum rates and fares, station and service terminal charges, interchange of traffic and the responsibility of railway administrations as carriers of goods and passengers; the regulation of minor railways in respect of safety and the responsibility of the administrations of such railways as carriers of goods and passengers.

21. Maritime shapping and navigation, including shipping and navigation on tidal waters; Admiralty jurisdiction.

22. Major ports, that is to say, the declaration and delimitation of such ports, and the constitution and powers of Port Authorities therein.

23. Fishing and fisheries beyond territorial waters.

24. Aircraft and air navigation; the provision of aerodromes; regulation and organisation of air traffic and of aerodromes.

25. Lighthouses, including lightships, beacons and other provision for the safety of shipping and aircraft.

26. Carriage of passengers and goods by sea or by air.

27. Copyright, inventions, designs, trademarks and merchandise marks.

28. Cheques, bills of exchange, promissory notes and other like instruments.

29. Arms; firearms; ammunition.

30. Explosives.

31. Opium, so far as regards cultivation and manufacture, or sale for export.

32. Petroleum and other liquids and substances declared by Federal law to be dangerously inflamable, so far as regards possession, storage and transport.

33. Corporations, that is to say the incorporation, regulation and winding-up of trading corporations, including banking, insurance and financial corporations, but not including corporations owned or controlled by a Federated State and carrying on business only within that State or co-operotive societies, and of corporations, whether trading or not, with objects not confined to one unit [3][but not including universities].

34. Development of Industries, where developments, under [3a][Federal] control is declared by Federal law to be expedient in the public interest.

35. Regulation of labour and safety in mines and oilfields.

36. Regulation of mines and oilfields and mineral development to which such regulation and development under [3a][Federal] control is declared by Federal law to be expedient in the public interest.

37. The law of insurance, except as respects insurance undertaken by a Federated State, or, by virtue of any entry in he Provincial Legislative List or the Concurrent Legislative List by a Province.

38. Banking, that is to say, the conduct of banking business by corporations other than corporations owned or controlled by a Federated State and carrying on business only within that State.

2a. The word 'or' inserted, by the India (Provisional Constitution) Order, 1947.

2b. Omitted, by *ibid*.

3. *Added* by the India and Burma (Miscellaneous Amendments) Act, 1940 (3 & 4 Geo. VI, ch. 5), S. 7.

3a. Substituted by *ibid*., by the word 'Dominion'.

[3b]39. Extension of the powers and jurisdiction of members of a police force belonging to any part of British India to any area in another Governor's Province or Chief Commissioner's Province, but not so as to enable the police of one part to exercise powers and jurisdiction elsewhere without the consent of the Government of the Province or the Chief Commissioner as the case may be; extension of the powers and jurisdiction of members of a police force belonging to any unit to railway areas outside that unit.

40. Elections to the Federal Legislature, subject to the provisions of this Act [3c][and of any Order in Council made thereunder].

41. The salaries of the [3d][Federal Ministers, of the President and Vice President of the Council of State and of the Speaker and Deputy Speaker of the Federal Assembly]; the salaries, allowances and privileges of the members of the Federal Legislature; and, [3d][to such extent as is expressly authorised by Part II of this Act], the punishment of persons who refuse to give evidence or produce documents before Committees of the Legislature.

42. Offences against laws with respect to any of the matters in this list.

43. Inquiries and statisties for the purposes of any of the matters in this list.

44. Duties of customs, including export duties.

45. Duties of excise on tobacco and other goods manufactured or produced in India except—

(a) alcoholic liquors for human consumption;

(b) opium, India hemp and other narcotic drugs and narcotics; non-narcotic drugs;

(c) medicinal and toilet preparations containing alcohol, or any substance encluded in sub-paragraph (b) of this entry.

46. Corporation tax.

47. Salt.

48. State lotteries.

49. Naturalisation.

50. Migration within India from or into a Governor's Province or a Chief Commissioner's Province.

51. Establishment of standards of weight.

52. Ranchi European Mental Hospital.

53. Jurisdiction and powers of all courts, except the Federal Court, with respect to any to the matters in this list and, to such extent as is txpressly authorised by Part IX of this Act, the enlargement of the appellate jurisdiction of the Federal Court and the conferring thereon of supplemental powers.

54. Taxes on income other than agricultural income.

[4][54-A. The matters specified in the proviso to sub-section (2) of section one hundred and forty-two A of this Act as matters with respect to which provision may be made by laws of the Federal Legislature.]

55. Taxes on the capital value of the assets, exclusive of agricultural land, of individuals and companies;

3b. Substituted, by the India (Provisional Constitution) Order, 1947, as follows:

"39. Extension of the powers and jurisdiction of members of a police force belonging to any province to any area in another province, but not so as to enable the police of one province exercise powers and jurisdiction in another province without the consent of the Government of that Province; extension of the powers and jurisdiction of members of a police force belonging to any unit to railway areas outside that unit.

In this entry 'province' includes a Chief Commissioner's province' ";

3c. Omitted, by *ibid.*

3d. The following changes were made, by *ibid.*—

For the words from "Federal Ministers" to "Federal Assembly" substitute 'Dominion Ministers and of the President and Deputy President of the Dominion Legislature", and omit "to such extent as is expressly authorised by Part II of this Act".

4. *Inserted* by the India and Burma (Miscellaneous Amendments) Act, 1940 (3 & 4 Geo. VI, Ch. 5), S. 2.

56. Duties in respect of succession to property other than agricultural land.

[5][56-A. Estate duty in respect of property other than agricultural land.]

57. The rates of stamp in respect of bills of txchange, cheques. prohissory notes, bills of landing, letters of credit, policies of insurance, proxies and receipts.

58. Terminal taxes on goods or passengers carried by railway or air; taxes on railway fares and freights.

59. Fees in respect of any of the matters in this list, but not including fees taken in any Court.

LIST II.—PROVINCIAL LEGISLATIVE LIST.

1. Public order (but not including the use of His Majesty's naval, military or air forces in aid of the civil power); the administration of justice; constitution and organisation of all courts, except the Federal Court, and fees taken therein; preventive detention for reasons connected with the maintenance of public order; persons subjected to such detention.

2. Jurisdiction and powers of all courts except the Federal Court, with respect of the matters in this list; procedure in Rent and Revenue Courts.

3. Police, including railway and village police.

4. Prisons. reformatories, Borstal institutions and other institutions of a like nature, and persons detained therein; arrangements with other units for the use of prisons and other institutions.

5. Public debt of the Province.

6. Provincial Public Services and Provincial Public Service Commissions.

7. Provincial pensions, that is to say, pensions payable by the Province or out of Prvincial revenues.

8. Works, lands and buildings vested in or in the possession of His Majesty for the purposes of the Province.

9. Compulsory acquisition of land.

10. Libraries, museums and other similar institutions controlled or financed by the Province.

11. Elections to the Provincial Legislature, subject to the provisions of this Act [and of any Order in Council] made thereunder.

12. The salaries of the Provincial Ministers, of the Speaker and Deputy Speaker of the Legislative Assembly, and, if there is a Legislative Council, of the President and Deputy President thereof; the salaries, allowances and privileges of the members of the Provincial Legislature; and to such extent as is expressly authorised by Part III of this Act, the punishment of persons who refuse to give evidence or produce documents before Committees of the Provincial Legislature.

13. Local government, that is to say, the constitution and powers of municipal corporations, improvement trusts, district boards, mining settlement authorities and other local authorities for the purpose of local self-government or village administration.

14. Public health and sanitation; hospitals and dispensaries; registration of births and deaths.

15. Pilgrimages, other than pilgrimages to places beyond India.

16. Burials and burial-grounds.

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5. *Inserted* by the India (Estate Duty) Act, 1945 (8 & 9 Geo. VI, Ch. 7), S. 1.
1. Omitted, by the India (Provisional Constitution) Order, 1947.

[1a][17. Educations including Universities other than specified in paragraph 13 of List I.]

18. Communications, that is to say, roads, bridges, ferries, and other means of communications not specified in List I; minor railways subject to the provisions of List I with respect to such railways ; municipal tramways ; ropeways ; inland waterways and traffic thereon subject to the provisions of List III with regard to such waterways ; ports. subject to the Provisions in List I with regard to major ports; vehicles other than mechanically propelled vehicles.

19. Water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage and water power.

20. Agriculture, including agricultural education and research. protection against pests and prevention of plant diseases ; improvement of stocks and prevention of animal diseases : veterinary training and practice ; pounds and the prevention of cattle-trespass.

21. Land, that is to say, rights in or over land, land tenures, including the relation of landlord and tenant and the collection of rents ; transfer, alienation and devolution of agricultural lnad ; land improvement and, agricultural loans ; colonization ; Court of Wards: encumbered and attached estates; treasure trove.

22. Forests.

23. Regulation of mines and oilfields and mineral development subject to the provisions of List I with respect to regulation and development under [1b][Federal] control

24. Fisheries.

25. Protection of wild birds and wild animals. .

26. Gas and gasworks.

27. Trade and commerce within the Province ; markets and fairs ; money lending and money lenders.

28. Inns and inn-keepers.

29. Production, supply and distribution of goods; development of industries, subject to the provisions in List with respect to the development of certain industries under [1b][Federal] control.

30. Adulteration of foodstuffs and other goods : weights and measures.

31. Intoxicating liquors and narcotic drugs, that is to say, the production, manufacture, possession, transport, purchase and sale of intoxicating liquors, opium and other narcotic drugs, but subject, as respects opium, to the provisions of List I and, as respects poisons and dangerous drugs, to the provisions of List III.

32. Relief of the poor unemployment.

33. The incorporation, regulation, and winding up corporations [2][not being corporations specified in List I or Universities]; unincorporated trading, literary, scientific religions and other societies and associations ; co-operative societies.

34. Charities and charitable institutions, charitable and religious endowments.

35. Theatres, dramatic performances and cinemas, but not including the sanction of cinematograph films for exhibition.

36. Betting and gambling.

37. Offences against laws with respect to any of the matters in this list.

38. Inquiries and statistics for the purpose of any of the matters in this list.

39. Land revenue, including the assessments and collection of revenue, the maintenance of land records, survey for revenue purposes and records of rights, and alienation of revenue.

1a. *Substituted* by the India and Burma (Miscellaneous Amendments) Act, 1940 (3 and 4 Geo. VI, ch. 5), S 7.

1b. Substituted, by the India (Provisional Constitution) Order, 1947, by the word 'Dominion'.

40. Duties of excise on the following goods is manufactured or produced in the Province and countervailing duties at the same or lower rates on similar goods manufactured or produced elsewhere in India—

(a) alcoholic liquors for human consumption ;

(b) opium, Indian hemp and other narcotic drugs and narcotics ; non-narcotic drugs ;

(c) medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (b) of this entry.

41. Taxes on agricultural income.

42. Taxes on land and buildings, hearths and windows.

43. Duties in respect of succession to agricultural land.

[2][43-A. Estate duty in respect of agricultural land.]

44. Taxes on mineral rights, subject to any limitations imposed by any Act of the Federal Legislature relating to mineral development.

45. Capitation taxes.

[3][46. Taxes on professions, trades, callings and employments, subject, howevr, to the provisions of section one hundred and forty-two A of this Act]—

47. Taxes on animals and boats.

48. Taxes on the sale of goods and on advertisements.

[4][48-A. Taxes on vehicles suitable for use on roads, whether mechanically propelled or not, including tramcars.

48-B. Taxes on the consumption or sale of electricity, subject, however, to the provisions of section one hundred and fifty-four A of this Act.]

49. Cases on the entry of goods into a local area for consumption, use or sale therein.

50. Taxes on luxuries, including taxes on entertainments, amusements, betting and gambling.

51. The rates of stamp duty in respect of documents other than those specified in the provisions of List I with regard to rates of stamp duty.

52. Dues on passengers and goods carried on inland waterways.

53. Tolls.

54. Fees in respect of any of the matters in this list, but not including fees taken in any Court.

LIST III—CONCURRENT LEGISLATIVE LIST.

PART I.

1. Criminal law, including all matters included in the Indian Penal Code at the date of the passing of this Act, but excluding offences against laws with respect to any of the matters specified in List I or List II and excluding the use of His Majesty's naval, military and air forces in and of the civil power.

2. Criminal Procedure, including all matters included in the Code of Criminal Procedure at the date of the passing of this Act.

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2. *Inserted* by the India (Estate Duty) Act, 1945 (8 & 9 Geo. VI (Ch. 7), S. 1.
3. *Substituted*, by the India and Burma (Miscellaneous Amendment) Act, 1940 (3 & 4 Geo. VI, Ch. 5), s. 2, for "Taxes on professions, trades, callings and employments".
4. Items 48-A and 48-B were *inserted* by the India and Burma (Miscellaneous Amendments) Act, 1940 (3 & 4 Geo. VI, Ch. 5), S. 3.

3. Removal of prisoners and accused persons from one unit to another unit.

4. Civil Procedure, including the law of Limitation and all matters included in the Code of Civil Procedure at the date of the passing of this Act; the recovery in a Chief Commissioner's Province of claims in respect of taxes and other public demands, including arrears of land revenue and sums recoverable as such, arising outside that Province.

5. Evidence and oaths; recognition of laws, public acts and records and judicial proceedings.

6. Marriage and divorce; infants and minors; adoption.

7. Wills, intestacy; and succession, save as regards agricultural land.

8. Transfer of property oher than agriculture land; registration of deeds and documents.

9. Trusts and Trustees.

10. Contracts, including partnership, agency, contrarts of carriage, and other special forms of contract. but not including contracts relating to agricultural land.

11. Arbitration.

12. Bankruptcy and insolvency: administrators-general and official trustees.

13. Stamp duties other than duties or fees collected by means of judicial stamps, but not including rates of stamp duty.

14. Actionable wrongs, save in so far as included in laws with respect to any of the matters specified in List I or List II.

15. Jurisdiction and powers of all courts, except the Federal Court, with respect to any of the matters in this list.

16. Legal medical and other professions.

17. Newspapers, books and printing presses.

18. Lunacy and mental deficiency, including places for the reception or treatment of lunatics and mental deficients.

19. Poisons and dangerous drugs.

20. Mechanically propelled vehicles.

21. Boilers.

22. Prevention of cruelty to animals.

23. European vagrancy; criminal tribes.

24. Inquiries and statistics for the purpose of any of the matters in this Part of this List.

25. Fees in respect of any of the matters in this Part of this List, but not including fees taken in any Court.

PART II.

[*Section 126 (2).*]

26. Factories.

27. Welfare of labour; conditions of labour; provident funds; employers' liability and workmen's compensation; health insurance, including invalidity pensions; old age pensions.

28. Unemployment insurance.

29. Trade unions; industrial and labour disputes.

30. The prevention of the extension from one unit to another of infectious or contagious diseases or pesas affecting men, animals or plants.

31. Electricity.

32. Shipping and navigations on inland waterways as regards mechanically propelled vessels. and the rule of the road on such waterways; carriage of passengers and goods on inland waterways.

33. The sanctioning of cinematograph films for exhibition.

34. Persons subjected to preventive detention under [5][Federal] authority.

35. Inquiries and statistics for the purpose of any of the matters in this Part of this List.

36. Fees in respect of any of the matters in this Part of this List, but not including fees taken in any Court.

EIGHTH SCHEDULE.[1]

(Section 182.)

THE FEDERAL RAILWAY AUTHORITY.

1. The Federal Railway Authority, which shall be a body corporate by, and may sue and be sued in, that name, (in this Schedule referred to as 'the Authority") shall consist of seven persons to be appointed by the Governor-General.

2. A person shall not be qualified to be appointed or to be a member of the Authority—

(a) unless he has had experience in commerce, industry, agriculture, finance, or administration ; or

(b) if he is, or within the twelve months last preceding has been

(i) a member of the Federal or any Provincial Legislature; or

(ii) in the service of the Crown in India; or

(iii) a railway official in India.

3. Of the first members of the Authority, these shall be appointed for three years and any of those members shall at the expiration of his original term of office be eligible for re-appointment for a further term of three years, or of five years.

Subject as aforesaid, a member of the Authority shall be appointed for five years and shall at the expiration of his original term of office be eligible for re-appointment for a furher term not exceeding five years.

The Governor-General, exercising his individual judgment, may terminate the appointment of any member if satisfied that, that member is for any person unable or unfit to continue to perform the duties of his office.

4. The Governor-General, execising his individual judgment, may make rules providing for the appointments of temporary members to act in place of any members temporarily unable to perform the duties of their office.

5. A member of the Authority shall be entitled to receive such salary and allowances as the Governor-General, exercising his individual judgment, may determine :

Provided that the emoluments of a member shall not be reduced during his term of office.

6. All acts of the Authority and all questions before them shall be done and decided by a majority of the members present and voting at a meeting of the Authority.

In the case of an equality of votes at any meeting, the person presiding there shall have a second or casting vote.

7. If a member of the Authority is or becomes the holder of or tenders for any contract for the supply of materials to, or the execution of works for, any railway in India, or is or becomes concerned in the management of any company holding or tender-

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5. Substituted. by the India (Provisional Constitution) Order, 1947, by the word 'Dominion'.

1. Omitted, by *ibid.*

ing for such a contract as aforesaid, he shall forthwith make full disclosure of the facts to the Authority and shall not take part in the consideration or discussion of, or vote on, any question with respect to the contract.

8. At any meeting of the Authority a person or persons deputed by the Governor-General to represent him may attend and speak, but not vote.

9. Subject to the provisions of this Act, the Authority may make standing orders for the regulation of their proceedings and business, and may vary or revoke any such order.

10. The proceedings of the Authority shall not be invalidated by any vacancy among their number, or by any defect in the appointment or qualification of any member.

11. At the head of the executive staff of the Authority there shall be a chief railway commissioner, being a person with experience in Railway administration, who shall be appointed by the Governor-General exercising his individual judgment, after consultation with the Authority.

12. The chief railway commissioner shall be assisted in the performance of his duties by a financial commissioner, who shall be appointed by the Governor-General, and by such additional commissioners, being persons with experience in railway administration, as the Authority on the recommendation of the chief railway commissioner may appoint.

13. The chief railway commissioner shall not be removed from office except by the Authority and with the approval of the Governor-General, exercising his individual judgment, and the financial commissioner shall not be removed from office except by the Governor-General, exercising his individual judgment.

14. The chief railway commissioner and the financial commissioner shall have the right to attend any meeting of the Authority, and the financial commissioner shall have the right to require any matter which relates to, or affects, finance to be referred to the Authority.

15. The Authority shall not be liable to pay Indian income-tax or super-tax on any of its income, profits or gains.

16. The Authority shall entrust all their money which is not immediately needed to the Reserve Bank of India and employ that bank as their agents for all transactions in India relating to remittances, exchange and banking, and the bank shall undertake the custody of such moneys and such agency transactions on the same terms and conditions as those upon which they undertake the custody of moneys belonging to, or agency transactions for, the Federal Government.

NINTH SCHEDULE.[1]

(Section 317.)

PROVISIONS OF GOVERNMENT OF INDIA ACT CONTINUED IN FORCE WITH AMENDMENTS UNTIL THE ESTABLISHMENT OF THE FEDERATION.

The Governor-General's Executive Council.

36. *Members of Council.*—(1) The members of the Governor-General's Executive Council shall be appointed by His Majesty by warrant under the Royal Sign Manual.

(2) The number of the members of the Council shall be such as His Majesty thinks fit to appoint.

(3) Three at least of them must be persons who have been for at least ten years in the service of the Crown in India, and one must be a barrister of England or

1. *Effective* from 1-4-1937 under the Government of India (Commencement and Transitory Provisions) Order, 1936, para 3, and *omitted*, by the India (Provisional Constitution) Order, 1947.

Ireland, or a member of the Faculty of Advocates of Scotland, or a pleader of a high court, of not less than ten years' standing.

(4) If any member of the Council (other than the Commander-in-Chief for the time being of His Majesty's forces in India) is at the time of his appointment in the military service of the Crown, he shall not, during his continuances in office as such member, hold any military command or be employed in actual military duties.

(5) Provisions may be made by rules under this Act as to the qualifications to be required in respect of the members of the Governor-General's Executive Council, in any case where such provision is not made by the foregoing provisions of this section.

37. *Rank and precedence of Commander-in-Chief.*—If the Commander-in-Chief for the time being of His Majesty's forces in India is a member of the Governor-General's Executive Council, he shall, subject to the provisions of this Act, have rank and precedence in the Council next after the Governor-General.

38. *Vice-President of Council Meetings.*—The Governor-General shall appoint a member of his Executive Council to be vice-president thereof.

39.—(1) The Governor-General's Executive Council shall assemble at such places in India as the Governor-General in Council appoints.

(2) At any meeting of the Council the Governor-General, or other person presiding and one member of this Council (other than the Commander-in-Chief) may exercise all the functions of the Governor-General in Council.

40. *Business of Governor-General in Council.*—(1) All orders and other proceedings of the Governor-General in Council shall be expressed to be made by the Governor-General in Council, and shall be signed by a secretary to the Government of India, or otherwise as the Governor-General in Council may direct, and, when so signed, shall not be called into question in any legal proceeding on the ground that they were not duly made by the Governor-General in Council.

(2) The Governor-General may make rules and orders for the more convenient transaction of business in his Executive Council, and every order made or act done, in accordance with such rules and orders, shall be treated as being the order or the act of the Governor-General in Council.

41. *Procedure in case of difference of opinion.*—(1) If any difference of opinion arises on any question brought before a meeting of the Governor-General's Executive Council, the Governor-General in Council shall be bound by the opinion and decision of the majority of those present, and, if they are equally divided, the Governor-General or other person presiding shall have a second or casting vote.

(2) Provided that, whenever any measure is proposed before the Governor-General in Council whereby the safety, tranquillity or interests of British India, or of any part thereof, are or may be, in the judgment of the Governor-General essentially affected, and he is of opinion either that the measure proposed ought to be adopted and carried into execution, or that it ought to be suspended or rejected, and the majority present at a meeting of the Council dissent from that opinion, the Governor-General may, on his own authority and responsibility, adopt, suspend or reject the measure, in whole or in part.

(3) In every such case any two members of the dissentient majority may require that the adoptions, suspension or rejection of the measure, and the fact of their dissent, be reported to the Secretary of State, and the report shall be accompanied by copies of any minutes which the members of the Council have recorded on the subject.

(4) Nothing in this section shall empower the Governor-General to do anything which he could not lawfully have done with the concurrence of his Council.

42. *Provisions for absence of Governor-General from meetings of Council.*—If the

Governor-General is obliged to absent himself from any meeting of the Council, by indisposition or any other cause, the vice-president, or, if he is absent, the senior member (other than the Commander-in-Chief) present at the meeting, shall preside thereat, with the like powers as the Governor-General would have had if present:

Provided that, if the Governor-General is at the time resident at the place where the meeting is assembled, and is not prevented by indisposition from signing any act of Council made at the meeting, the act shall require his signature; but if he declines or refuses to sign it, the like provisions shall have effect as in case where the Governor-General, when present, dissents from the majority at a meeting of the Council.

43. *Power of Governor-General in absence from Council.*—(1) Whenever the Governor-General in Council declares that it is, expedient that the Governor-General should visit any part of India unaccompanied by his Executive Council, the Governor-General in Council may, by order, authorize the Governor-General alone to exercise, in his discretion, all or any of the powers which might be exercised by the Governor-General in Council at meetings of the Council.

The Indian Legislature.

63. *Indian legislature.*—Subject to the Provisions of this Act, the Indian legislature shall consist of the Governor-General and two chambers, namely, the Council of State and the Legislative Assembly.

Except as otherwise provided by or under this Act, a Bill shall not be deemed to have been passed by the Indian legislature, unless it has been agreed to by both chambers, either without amendment or with such amendments only as may be agreed to by both chambers.

63*a*. *Council of State.*—(1) The Council of State shall consist of not more than sixty members nominated or elected in accordance with rules made under this Act, of whom not more than twenty shall be official members.

(2) The Governor-General shall have power to appoint, from among the members of the Council of State, a president and other persons to preside in such circumstances as he may direct.

(3) The Governor-General shall have the right of addressing the Council of State, and may for that purpose require the attendance of its members.

63*b*. *Legislative Assembly.*—(1) The Legislative Assembly shall consist of members nominated or elected in accordance with rules made under this Act.

(2) The total number of members of Legislative Assembly shall be one hundred and forty. The number of non-elected members shall be forty, of whom twenty-six shall be official members. The number of elected members shall be one hundred:

Provided that rules made under this Act may provide for increasing the number of members of Legislative Assembly as fixed by this section, and may vary the proportion which the classes of members bear one to another, so, however, that at least five-sevenths of the members of Legislative Assembly shall be elected members, and at least one-third of the other members shall be non-official members.

(3) The Governor-General shall have the right of addressing the Legislative Assembly, and may for that purpose require the attendance of its members.

63*c*. *President of Legislative Assembly.*—(1) There shall be a president of the Legislative Assembly, who shall be a member of the Assembly elected by the Assembly and approved by the Governor-General.

(2) There shall be a deputy president of the Legislative Assembly, who shall preside at meetings of the Assembly in the absence of the president, and who shall be a member of the Assembly elected by the Assembly and approved by the Governor-General.

(3) A president and a deputy president shall cease to hold office if they cease

to be members of the Assembly. They may resign office by writing under their hands addressed to the Governor-General, and may be removed from office by a vote of the Assembly with the concurrence of the Governor-General.

(4) A president and deputy-president shall receive such salaries as may be determined by Act of the Indian Legislature.

63*d*. *Durations and sessions of Legislative Assembly and Council of State.*—

(1) Every Council of State shall continue for five years, and every Legislative Asssembly for three years, from its first meeting :

Provided that—

(a) either chamber of the legislature may be sooner dissolved by the Governor-General ; and

(b) any such period may be extended by the Governor-General if in special circumstances he so thinks fit ; and

(c) after the dissolution of either chamber the Governor-General shall appoint a date not more than six months, or, with the sanction of the Secretary of State, not more than nine months, after the date of dissodution for the next session of that chamber.

(2) The Governor-General may apoint such times and places for holding the sessions of either chamber of the Indian legislature as he thinks fit, and may also from time to time, by notification or otherwise, prorogue such sessions.

(3) Any meeting of either chamber of the Indian legislature may be adjourned by the person presiding.

(4) All questions in either chamber shall be determined by a majority of votes of members present other than the presiding member, who shall, however, have and exercise a casting vote in the case of an equality of votes.

(5) The powers of either chamber of the Indian legislature may be exercised notwithstanding any vacancy in the chamber.

63*e*. *Membership of both chambers.*—(1) 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.

[2][Provided that an 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.]

(2) If an elected member of either chamber of the Indian legislature becomes a member of the other chamber, his seat in such first mentioned chamber shall thereupon become vacant.

(3) If any person is elected a member of both chambers of the Indian legislature, he shall before he takes his seat in either chamber, signify in writing the chamber of which he desires to be a member, and thereupon his seat in the other chamber shall become vacant.

(4) Every member of the Governor-General's Executive Council shall be nominated as a member of one chamber of the Indian legislature, and shall have the right of attending in and addressing the other chamber, but shall not be a member of both chambers.

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2. *Added* by the India and Burma (Temporary and Miscellaneous Provisions) Act, 1942 (5 & 6, Geo. 6, ch. 39), s. 3, [*retrospectively*].

64. *Supplementary provisions as to composition of Legislative Assembly and Council of State.*—(1) Subject to the provisions of this Act, provision may be made by rules under this Act as to—

(a) the term of office of nominated members of the Council of State and the Legislature Assembly, and the manner of filing casual vacancies occurring by reason of absence of members from India, inability to attend to duty, death, acceptance of office, or resignation duly accepted, or otherwise ; and

(b) the conditions under which and the manner in which persons may be nominated as members of the Council of State or the Legislative assembly ; and

(c) the qualification of electors, the constitution of constituencies, and the method of election for the Council of State and the Legislative Assembly (including the number of members to be elected by communal and other electorates) and any matter incidental or ancillary thereto ; and

(d) the qualifications for being or for being nominated or elected as members of the Council of State or the Legislative Assembly : and

(e) the final decision of doubts or disputes as to the validity of an election : and

(f) the manner in which the rules are to be carried into effect.

(2) Subject to any such rules, any person who is a ruler or subject of any stae in India may be nominated as a member of the Council of State or the Legislative Assembly.

67. *Business and proceedings in Indian legislature.*—(1) Provision may be made by rules under this Act for regulating the course of business and the preservation of order in the chambers of the Indian legislature, and as to the persons to preside at the meetings of the Legislative Assembly in the absence of the president and the deputy president ; and the rules may provide for the number of members required to constitute a quorum, and for prohibiting or regulating the asking of questions on, and the discussion of, any subject specified in the rules.

(2*a*) Where in either chamber of the Indian legislature any Bill has been introduced, or is proposed to be introduced, or any amendment to a Bill is moved, or proposed to be moved, the Governor-General may certify that the Bill, or any clause of it, or the amendment, affects the safety or tranquillity of British India or any part thereof, and may direct that no proceedings, or that no further proceeding, shall be taken by the chamber in relation to the Bill, clause, or amendment, and effect shall be given to such direction.

(3) If any Bill which has been passed by one chamber is not within six months after the passage of the Bill by that chamber passed by the other chamber either without amendments or with such amendments as may be agreed to by the two chambers, the Governor-General may in his discretion refer the matter for decision to a joint sitting of both chambers : Provided that standing orders made under this section may provide for meetings of members of both chambers appointed for the purpose, in order to discuss any difference of opinion which has arisen between the two chambers.

(4) Without prejudice to the powers of the Governor-General under section sixty-eight of this Act, the Governor-General may. where a Bill has been passed by both chambers of the Indian legislature, return the Bill for reconsideration by either chambers.

(5) Rules made for the purpose of this section may contain such general and supplemental provisions as appear necessary for the purpose of giving full effect to this section.

(6) Standing orders may be made providing for the conduct of business and the procedure to be followed in either chamber of the Indian legislature in so far as

these matters are not provided for by rules made under this Act. The first standing orders shall be made by the Governor-General in Council, but may, with the consent of the Governor-General, be altered by the chamber to which they relate.

Any standing order made as aforesaid which in repugnant to the provisions of any rules made under this Act shall, to the extent of that repugnancy but not otherwise, be void.

(7) Subject to the rules and standing orders affecting the chamber, there shall be freedom of speech in both chambers of the Indian legislature. No person shall be liable to any proceedings in any court by reason of his speech or vote in either chamber, or by reason of anything contained in any official report of the proceedings of either chamber.

67*a*. *Indian Budget.*—(1) The estimated annual expenditure and revenue of the Governor-General in Council shall be laid in the form of a statement before both chambers of the Indian legislature in each year.

(2) No proposal for the appropriation of any revenue or money for any purpose shall be made except on the recommendation of the Governor-General.

(3) The proposals of the Gvernor-General in Council for the appropriation of revenue of moneys relating to the following heads of expenditure shall not be submitted to the vote of the Legislative Assembly, nor shall they be open to discussion by either chamber at the time when the annual statement is under consideration unless the Governor-General otherwise directs :—

(i) interest and sinking fund charges on loans ; and

(ii) expenditure of which the amounts is prescribed by or under any law ; and

(iii) salaries (including in the case of the Governor-General sums payable on his account in respect of his office) and pensions payable to or to the dependents of—

(*a*) persons appointed by or with the approval of his Majesty;

(*b*) Chief Commissioners and Judicial Commissioners ; and

(iv) any grants for purposes connected with the administration of any areas in a Province which are for the time being Excluded Areas; and

(v) the sums payable to His Majesty under the Government of India Act 1935, in respect of the expenses of His Majesty incurred in discharging the functions of the Crown in relation to Indian States ; and

(vi) expenditure classified by the order of the Governor-General in Council as—

(a) ecclesiastical ;
(b) external affairs ;
(c) defence ; or
(d) relating to tribal areas.

(vii) Expenditure of the Governor-General in discharging his functions as respects matters with respect to which he is required by the provisions of the Government of India Act, 1935, for the time being in force to act in his discretion;

(viii) any other expenditure declared by the provisions of the Government of India Act, 1935, for the time being in force to be charged on the revenues of the Federation.

(4) If any question arises as to whether any proposed appropriation of revenue or moneys does or does not relate to the above heads, the decision of the Governor-General on the question shall be final.

(5) The proposals of the Governor-General in Council for the appropriation of revenue or moneys relating to heads of expenditure not specified in the above

heads shall be submitted to the vote of the Legislative Assembly in the form of demands for grants.

(6) The Legislative Assembly may assent or refuse its assent to any demand or may reduce the amount referred to any demand by a reduction of the grant.

(7) The demands as voted by the Legislative Assembly shall be submitted to the Governor-General in Council, who shall, if he declares that he is satisfied that any demand which has been refused by the Legislative Assembly is essential to the discharge of his responsibilities, act as if it had been assented to, notwithstanding the withholding of such assent, or the reduction of the amount therein referred to, by the Legislative Assembly.

(8) Notwithstanding anything in this section, the Governor-General shall have power, in case of emergency, to authorise such expenditure as may, in his opinion, be necessary for the safety or tranquillity of British India or any part thereof.

67B. *Provision for case of failure to pass legislation.*—(1) Where either chamber of the Indian legislature refuses leave to introduce, or fails to pass in a form recommended by the Governor-General, any Bill, the Governor-General may certify that the passage of the Bill is essential for the safety, tranquillity or interest of British India or any part thereof, and thereupon—

(a) if the Bill has already been passed by the other chamber, the Bill shall, on signature by the Governor-General notwithstanding that it has not been consented to by the both chambers, forthwith become an Act of the Indian legislature in the form of the Bill as originally introduced or proposed to be introduced in the Indian legislature, or (as the case may be) in the form recommended by the Governor-General; and

(b) if the Bill has not already been so passed, the Bill shall be laid before the other chamber, and, if consented to by that chamber in the form recommended by the Governor-General, shall become an Act as aforesoid on the signification of the Governor-General's assent, or, if not so consented to, shall, on signature by the Governor-General, become an Act as aforesaid.

(2) Every such Act shall be expressed to be made by the Governor-General, and shall, as soon as practicable after being made, be laid before both Houses of Parliament, and shall not have effect until it has received His Majesty's assent, and shall not be presented for His Majesty's assent until copies thereof have been laid before each House of Parliament for not less than eight days on which that House has sat ; and upon the signification of such assent by His Majesty in Council, and the notification thereof by the Governor-General, the Act shall have the same force and effect as an Act passed by the Indian legislature and duly assented to :

Provided that, where in the opinion of the Governor-General a state of emergency exists which justifies such action, the Governor-General may direct that any such Act shall come into operation forthwith, and there upon the Act shall have such force and effect as aforesaid, subject, however, to disallowance by His Majesty in Council.

68. *Assent of Governor-General to Bills.*—(1) When a Bill has been passed by both chambers of the Indian Legislature, the Governor-General may declare that he assents to the Bill, or that he withholds assent from the Bill, or that he reserves the Bill for the signification of His Majesty's pleasure thereon.

(2) A Bill passed by both chambers of the Indian legislature shall not become an Act until the Governor-General has declared his assent thereto, or, in the case of a Bill reserved for the signification of his Majesty's pleasure until His Majesty in Council has signified his assent and that assent has been notified by the Governor-General.

69. *Power of Crown to disallow Acts.*—(1) When an Act of the Indian legislature

has been assented to by the Governor-General, he shall send to the Secretary of State an authentic copy thereof, and it shall be lawful for his Majesty in Council to signify his disallowance of any such Act.

(2) Where the disallowance of any such Act has been, so signified, the Governor-General shall forthwith notify the disallowance, and thereupon the Act, as from the date of notification, shall become void accordingly.

72. *Power to make ordinances in cases of emergency.*—The Governor-General may, in cases of emergency, make and promulgate ordinances for the peace and good government of British India or any part thereof, and any ordinance so made shall, [3][*for the space of not more than six months from its promulgation*] have the like force of law as an Act passed by the Indian legislature; but the power of making ordinances under this section is subject to the like restrictions as the power of the Indian legislature to make laws; and any ordinance made under this section is subject to the like disallowance as an Act passed by the Indian legislature, and may be controlled or superseded by any such Act.

Salaries, leave of absence, vacation of office, etc.

85. *Salaries and allowances of Governor-General and certain other officials in India.*—(1) There shall be paid to the Governor-General of India, to the Commander-in-Chief of His Majesty's Forces in India and to the members of the Governor-General's Executive Council (other than the Commander-in-Chief), out of the revenues of the Governor-General in Council, such salaries and such allowances (if any) for equipment and voyage as the Secretary of State may by order fix in that behalf and subject to or in default of any such order as are payable at the commencement of Part III of the Government of India Act, 1935; but salary of the Governor-General shall not exceed two hundred and fifty-six thousand rupees annually, the salary of the Commander-in-Chief shall not exceed one hundred thousand rupees annually and the salary of members of the Governor-General's Executive Council (other than the Commander-in-Chief) shall not exceed eighty thousand rupees annually.

(2) Provided as follows,—

(*a*) the Secretary of State shall not make order affecting salaries of members of the Governor-General's Executive Council except after consulting his advisers and and with the concurrence of at least one-half of them;

(*b*) if any person to whom this section applies holds or enjoys any pension or salary or any office of profit under the Crown or under any public office, his salary under this section shall be reduced by the amount of the pension, salary or profits of office so held or enjoyed by him;

(*c*) nothing in the provisions of this section with respect to allowances shall authorise the imposition of any additional charge on the revenues of the Governor-General in Council.

(3) The remuneration payable to a person under this section shall commence on his taking upon himself the execution of his office and shall be the whole profit or advantage which he shall enjoy from his office during his continuance therein:

Provided that nothing in this section shall apply to the allowances or other forms of profit and advantage which may have been sanctioned for such persons before the commencement of Part III of the Government of India Act, 1935, by the Secretary of State in Coeuncil or may thereafter have been sanctioned by the Secretary of State.

86. *Power to grant leave of absence to Governor-General, etc.*—(1) The Secretary of State may grant to the Governor-General and, on the recommendation of the

3. Operation of the words in italics and within brackets was *suspended* from 27-6-1940 to 1-4-1946. *See* by the India and Burma (Emergency Provisions) Act, 1940 (3 & 4 Geo. VI, Ch. 33), S. 1 (3), and S. 3 and the India and Burma (Termination of Emergency) Order, 1946, para. 2, Gazette of India, Extraordinary, 1-4-1946, page 255.

Governor-General in Council, to the Commander-in-Chief, leave of absence for urgent reasons of public interest, or of health or of private affairs.

(2) The Governor-General in Council may grant to any member of his Executive Council (other than the Commander-in-Chief) leave of absence for urgent reasons of health or of private affairs.

(3) Leave of absence shall not be granted to any person in pursuance of this section [5][for urgent reasons of health or of private affairs] for any period exceeding four months not more than once during his tenure of office:

Provided that the Secretary of State may, if he thinks fit, extend any period of leave so granted, but in any such case the reasons for the extension shall be set forth in a minute signed by the Secretary of State and laid before both Houses of Parliament.

(4) Where leave of absence is granted to any person in pursuance of this section, he shall retain his office during the period of leave as originally granted, or, if that period is extended by the Secretary of State during the period as so extended, but, if his absence exceeds that period, his office shall be deemed to have become vacant in the case of a person granted leave for urgent reasons of public interest as from the termination of that period and in any other case as from the commencement of his absence.

(5) Where a person obtains leave of absence in pursuance of this section, he shall be entitled to receive during his absence such leave allowances as may be prescribed by rules made by the Secretary of State, but, if he does not resume his duties upon the termination of the period of the leave, he shall, unless the Secretary of State otherwise directs, repay, in such manner as may be prescribed as aforesaid, any leave allowances received under this sub-section.

[6][(6) If the Governor-General or the Commander-in-Chief is granted leave for urgent reasons of public interest, the Secretary of State may—

(*a*) direct that he shall be entitled to receive during his absence his salary as fixed under the last foregoing section in lieu of the leave allowances to which he would otherwise be entitled under the last foregoing sub-section;

(*b*) grant to him, in addition to his salary as so fixed or any leave allowances, as the case may be, such allowances or further allowances in respect of travelling expenses as the Secretary of State may think fit.

(7) Rules made under this section shall be laid before both Houses of Parliament as soon as may be after they are made.

[7][87. *Acting appointments during the absence of the Governor-General etc. on leave.*—(1) Where, in pursuance of the last foregoing section leave is granted to the Governor-General for any reason or to the Commander-in-Chief for urgent reasons of health or of private affairs, a person shall be appointed to act in his place during his absence, and where leave is so granted to the Commander-in-Chief for urgent reasons of public interest, a person may be appointed to act in his place during his absence.

(2) Any such appointment shall be made by His Majesty by warrant under the Royal Sign Manual.

(3) A person appointed under this section to act in the place of the Commander-in-Chief may, if the Commander-in-Chief was a member of the Executive Council of the Governor-General, be also appointed by the Governor-General in Council to be a temporary member of that Council.

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4. *Inserted* by the India (Miscellaneous Provisions) Act, 1944 (7 & 8 Geo. VI, Ch. 38), S. 4.
5. *Substituted, ibid.*
6. *Substituted* by the India (Miscellaneous Provisions) Act, 1944 (7 & 8) Geo. VI, Ch. 38), S. 5.

(4) A person appointed under this section shall, until the return to duty of the permanent holder of the office or, if he does not return, until a successor arrives, hold and execute the office to which he has be appointed and shall have and may exercise all the rights and powers thereof and shall be entitle to receive the emoluments and advantages appertaining to the office, foregoing the emoluments and advantages (if any) to which he was entitled at the time of his being appointed to that office.]

89. *Power for Governor-General to exercise powers before taking seat.*—(1) If any person appointed to the office of the Governor-General is in India on or after the event on which he is to succeded, and thinks it necessary to exercise the powers of Governor-General before he takes his seat in Council, he may make known by notification his appointment and his intention to assume the office of Governor-General.

(2) After the notification, and thenceforth until he repairs to the place where the Council may assemble, he may exercise alone all or any of the powers which might be exercised by the Governor-General in Council.

(3) All acts done in the Council after the date of the notification, but before the communication thereof to the Council, shall be valid, subject, nevertheless, to revocation or alteration by the persons who has so assumed the office of Governor-General.

(4) When the office of Governor-Geneeral is assumed under the foregoing provision, the vice-president, or if he is absent, the senior member of the Council (other than the Commander-in-Chief) then present shall preside therein, with the same powers as the Governor-General would have had if present.

90. *Temporary vacancy in office of Governor-General.*—(1) If a vacancy occurs in the office of Governor-General when there is no successor in India to supply the vacancy, that one of the following governors, that is to say, the Governor of Madras, the Governor of Bombay and the Governor of Bengal, who was first appointed to the office of governor by His Majesty shall hold and execute the office of Governor-General until a successor arrives or until some person in India is duly appointed thereto.

(2) Every such acting Governor-General, while acting as such, shall have and may exercise all the rights and powers of the offices of Governor-General, and shall be entitled to receive the emoluments and advantages appertaining to his office of Governor, and shall not act in his office of Governor.

(3) If on the vacancy occurring, it appears to the governor, who by virtue of this section holds and executes the office of Governor-General, necessary to exercise the powers thereof before he takes his seat in Council, he may make known by notification his appointment and his intention to assume the office of Governor-General, and thereupon the provisions of section eighty-nine of this Act shall apply.

(4) Until such a governor has assumed the office of Governor-General, if no successor is on the spot to supply such vacancy, the vice-president, or, if he is absent, the senior member of the Executive Council (other than the Commander-in-Chief) shall hold and execute the office of Governor-General until the vacancy is filled in accordance with the provisions of this Act.

(5) Every vice-president or other member of Council so acting as Governor-General, while so acting, shall have and may exercise all the rights and powers of the office of Governor-General and shall be entitled to receive the emoluments and advantages appertaining to the office, foregoing his salary and allowances as member of Council for that period.

92. *Temporary vacancy in office of member of the Executive Council.*—(1) If a vacancy occurs in the office of a member of the Executive Council of the Governor-General (other than the Commander-in-Chief), and there is no successor present on the spot, the Governor-General in Council shall supply the vacancy by appointing a temporary member of Council.

(2) Until a successor arrives, the person so appointed shall hold and execute the office to which he has been appointed, and shall have and may exercise all the rights and powers thereof, and shall be entitled to receive the emoluments and advantages appertaining to the office, foregoing all emoluments and advantages to which he was entitled at the time of his being appointed to that office.

(3) If a member of the Executive Council of the Governor-General (other than the Commander-in-Chief is, by infirmity or otherwise, rendered incapable of acting or of attending to act as such, or is absent on leave or special duty, the Governor-General in Council shall appoint some person to be a temporary member of Council.

(4) Until the return to duty of the member so incapable or absent, the person temporarily appointed shall hold and execute the office to which he has been appointed, and shall have and may exercise all the rights and powers thereof, and shall be entitled to receive the emoluments and advantages appertaining to the office, foregoing the emoluments and advantages (if any) to which he was entitled at the time of his being appointed to that office.

(4A) When a member of the Executive Council is by infirmity or otherwise rendered incapable of acting or attending to act as such and a temporary member of council is appointed in his place, the absent member shall be entitled to receive half his salary for the period of his absence.

(5) Provided as follows:—

(*a*) no person may be appointed a temporary member of council who might not have been appointed to fill the vacancy supplied by the temporary appointment; and

(*b*) if the Secretary of State informs the Governor-General that it is not the intention of His Majesty to fill a vacancy in the Governor-General's Executive Council, no temporary appointment may be made under this section to fill the vacancy, and, if any such temporary appointment has been made before the date of the receipt of the information by the Governor-General, the tenure of the person temporarily appointed shall cease from that date.

93. *Vacancies in Legislative Councils.*—(1) A nominated or elected member of either chamber of the Indian Legislature may resign his office to the Governor-General, and on the acceptance of the resignation the office shall become vacant.

(2) If for a period of two consecutive months any such member is absent from India or unable to attend to the duties of his office the Governor-General may, by notification published in the Government gazette declare that the seat in council of that member has become vacant.

Supplemental.

129A. *Provisions as to rules.*—(1) Where any matter is required to be prescribed or regulated by rules under this Act, and no special provision is made as to the authority by whom the rules are to be made, the rules shall be made by the Governor-General in Council, with the sanction of the Secretary of State, and shall not be subject to repeal or alteration by any legislature in India.

(2) Any rules made under this Act may be so framed as to make different provision for different provinces.

(3) Any rules to which sub-section (1) of this section applies shall be laid before both Houses of Parliament as soon as may be after they are made, and, if an address is presented to His Majesty by either House of Parliament within the next thirty days on which that House has sat after the rules are laid before it praying that the rules or any of them may be annulled, His Majesty in Council may annual the rules or any of them, and those rules shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder:

Provided that the Secretary of State may direct that any rules to which this section applies shall be laid in draft before both Houses of Parliament, and in such case the rules shall not be made unless both Houses by resolution approve the draft either without modification or addition, or with modifications and additons to which both Houses agree, but, upon such approval being given, the rules may be made in the form in which they have been approved, and such rules on being so made shall be of full force and effect, and shall not require to be further laid before Parliament.

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[7]TENTH SCHEDULE.

(Section 321.)

ENACTMENTS REPEALED.

Session and Chapter of Act.	Title.	Extent of Repeal.
21 Geo. 3, c. 70	The East India Company Act, 1780	Section eighteen.
37 Geo. 3, c. 142	The East India Act, 1797	Section twelve.
16 & 17 Vict., c. 107	The Customs Consolidation Act, 1853	Section three hundred and twenty-nine.
23 & 24 Vict., c. 89	An Act to extend in certain cases the provisions of the Superannuation Act, 1859	The whole Act.
47 & 48 Vict., c. 38	The Indian Marine Service Act, 1884	The whole Act.
56 & 57 Vict., c. 62	The Madras and Bombay Armies Act, 1893	The whole Act.
5 & 6 Geo. 5, c. 61	The Government of India Act, 1915	The whole Act.[8]
6 & 7 Geo. 5, c. 37	The Government of India (Amendment) Act, 1916	The whole Act except sections six and eight.
9 & 10 Geo. 5, c. 101	The Government of India Act, 1919	The whole Act except the Preamble and sub-s. (1) of section forty-seven.
12 & 13 Geo. 5, c. 20	The Indian High Courts Act, 1922	The whole Act.
14 & 15 Geo. 5, c. 28	The Government of India (Leave of Absence) Act, 1924	The whole Act.
15 & 16 Geo. 5, c. 88	The Government of India (Civil Services) Act, 1925	The whole Act.
17 & 18 Geo. 5, c. 8	The Government of India (Indian Navy) Act, 1927	The whole Act except section two and sub-s. (1) of section four.
17 & 18 Geo. 5, c. 24	The Government of India (Statutory Commission) Act, 1927	The whole Act.
20 & 21 Geo. 5, c. 2	The Government of India (Aden) Act, 1929	The whole Act.
23 & 24 Geo. 5, c. 23	The Government of India (Amendment) Act, 1933	The whole Act.
23 & 24 Geo. 5, c. 36	The Administration of Justice (Miscellaneous Provisions) Act, 1933	In the First Schedule the words "5 & 6 Geo. 5, c. 61; The Government of India Act; section one hundred and twenty-seven."

7. *Effective* from 1-4-1937 under the Government of India (Commencement and Transitory Provisions) Order 1936, para. 3.
8. *See* however, *ibid.*, para. 12, by which S. 67 (2) (*a*) was retained in force till the establishment of the Federation.

IV. THE INDIAN INDEPENDENCE ACT, 1947

(10 & 11 GEO. VI, c. 30.)

ARRANGEMENT OF SECTIONS.

1. The new Dominions.
2. Territories of the new Dominions.
3. Bengal and Assam.
4. The Punjab.
5. The Governor-General of the new Diminions.
6. Legislation for the new Dominions.
7. Consequences of the setting up of the new Dominions.
8. Temporary provision as to government of each of the new Dominions.
9. Orders for bringing this Act into force.
10. Secretary of State's services, etc.
11. Indian armed forces.
12. British forces in India.
13. Naval forces.
14. Provisions as to the Secretary of State and the Auditor of Indian Home Accounts.
15. Legal proceedings by and against the Secretary of State.
16. Aden.
17. Divorce jurisdiction.
18. Provisions as to existing laws, etc.
19. Interpretation, etc.
20. Short title.

SCHEDULES

First Schedule—Bengal Districts provisionally included in the new Province of East Bengal.

Second Schedule—Districts provisionally included in the new Province of West Punjab.

Third Schedule—Modifications of Army Act and Air Force Act in relation to British forces.

An Act to make provision for the setting up in India of two independent Dominions, to substitute other provisions for certain provisions of the Government of India Act, 1935, which apply outside those Dominions, and to provide for other matters consequential on or connected with the setting up of those Dominions.

[*18th July, 1947.*]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

The new Dominions.

1. (1) As from the fifteenth day of August, nineteen hundred and forty-seven, two independent Dominions shall be set up in India, to be known respectively as India and Pakistan.

(2) The said Dominions are hereafter in this Act referred to as "the new Dominions", and the said fifteenth day of August is hereafter in this Act referred to as "the appointed day".

Territories of the new Dominions.

2. (1) Subject to the provisions of sub-sections (3) and (4) of this section, the territories of India shall be the territories under the sovereignty of His Majesty which, immediately before the appointed day, were included in British India except the territories which, under sub-section (2) of this section, are to be the territories of Pakistan.

(2) Subject to the provisions of sub-sections (3) and (4) of this section, the territories of Pakistan shall be—

(a) the territories which, on the appointed day, are included in the Provinces of East Bengal and West Punjab, as constituted under the two following sections ;

(b) the territories which, at the date of the passing of this Act, are included in the Province of Sind and the Chief Commissioner's Province of British Baluchistan ; and

(c) if, whether before or after the passing of this Act but before the appointed day, the Governor-General declares that the majority of the valid votes cast in the referendum which, at the date of the passing of this Act, is being or has recently been held in that behalf under his authority in the North-West Frontier Province are in favour of representatives of that Province taking part in the Constituent Assembly of Pakistan, the territories which, at the date of the passing of this Act, are included in that Province.

(3) Nothing in this section shall prevent any area being at any time included in or excluded from either of the new Dominions, so, however, that—

(a) no area not forming part of the territories specified in sub-section (1) or, as the case may be, sub-section (2), of this section shall be included in either Dominion without the consent of that Dominion ; and

(b) no area which forms part of the territories specified in the said sub-section (1) or, as the case may be, the said sub-section (2), or which has after the appointed day been included in either Dominion, shall be excluded from that Dominion without the consent of that Dominion.

(4) Without prejudice to the generality of the provisions of sub-section (3) of this section, nothing in this section shall be construed as preventing the accession of Indian States to either of the new Dominions.

Bengal and Assam.

3. (1) As from the appointed day—

(a) the Province of Bengal, as constituted under the Government of India Act, 1935, shall cease to exist; and

(b) there shall be constituted in lieu thereof two new Provinces, to be known respectively as East Bengal and West Bengal.

(2) If, whether before or after the passing of this Act, but before the appointed day, the Governor-General declares that the majority of the valid

votes cast in the referendum which, at the date of the passing of this Act, is being or has recently been held in that behalf under his authority in the District of Sylhet are in favour of that District forming part of the new Province of East Bengal, then, as from that day, a part of the Province of Assam shall, in accordance with the provisions of sub-section (3) of this section, form part of the new Province of East Bengal.

(3) The boundaries of the new Provinces aforesaid and, in the event mentioned in sub-section (2) of this section, the boundaries after the appointed day of the Province of Assam, shall be such as may be determined, whether before or after the appointed day, by the award of a boundary commission appointed or to be appointed by the Governor-General in that behalf, but until the boundaries are so determined—

(a) the Bengal Districts specified in the First Schedule to this Act, together with, in the event mentioned in sub-section (2) of this section, the Assam District of Sylhet, shall be treated as the territories which are to be comprised in the new Province of East Bengal ;

(b) the remainder of the territories comprised at the date of the passing of this Act in the Province of Bengal shall be treated as the territories which are to be comprised in the new Province of West Bengal ; and

(c) in the event mentioned in sub-section (2) of this section, the district of Sylhet shall be excluded from the Province of Assam.

(4) In this section, the expression "award" means, in relation to a boundary commission, the decision of the Chairman of that commission contained in his report to the Governor-General at the conclusion of the commission's proceedings.

The Punjab.

4. (1) As from the appointed day—

(a) the Province of the Punjab, as constituted under the Government of India Act, 1935, shall cease to exist ; and

(b) there shall be constituted two new Provinces, to be known respectively as West Punjab and East Punjab.

(2) The boundaries of the said new Provinces shall be such as may be determined, whether before or after the appointed day by the award of a boundary commission appointed or to be appointed by the Governor-General in that behalf, but until the boundaries are so determined—

(a) the Districts specified in the Second Schedule to this Act shall be treated as the territories to be comprised in the new Province of West Punjab ; and

(b) the remainder of the territories comprised at the date of the passing of this Act in the Province of the Punjab shall be treated as the territories which are to be comprised in the new Province of East Punjab.

(3) In this section, the expression "award" means, in relation to a boundary commission, the decision of the Chairman of that commission contained in his report to the Governor-General at the conclusion of the commission's proceedings.

The Governor-General of the new Dominions.

5. For each of the new Dominions, there shall be a Governor General who shall be appointed by His Majesty and shall represent His Majesty for the purposes of the government of the Dominion:

1. British Baluchistan, following the procedure laid down by the Governor-General in his Announcement of 24th June decided on the 27th June, 1947, to participate in the Constituent Assembly of Pakistan and the referendum taken in the North-West Frontier Province resulted in favour of its joining Pakistan.

Provided that, unless and until provision to the contrary is made by a law of the Legislature of either of the new Dominions, the same person may be Governor-General of both the new Dominions.

Legislation for the new Dominions.

6. (1) The Legislature of each of the new Dominions shall have full power to make laws for that Dominion, including laws having extra-territorial operation.

(2) No law and no provision of any law made by the Legislature of either of the new Dominions shall be void or inoperative on the ground that it is repugnant to the law of England, or to the provisions *of this or* any existing or future Act of Parliament of the United Kingdom, or to any order, rule or regulation made under any such Act, and the powers of the Legislature of each Dominion shall include the power to repeal or amend any such Act, order, rule or regulation in so far as it is part of the law of the Dominion.

(3) The Governor-General of each of the new Dominions shall have full power to assent in His Majesty's name to any law of the Legislature of that Dominion and so much of any Act as relates to the disallowance of laws by His Majesty or the reservation of laws for the signification of His Majesty's pleasure thereon or the suspension of the operation of laws until the signification of His Majesty's pleasure thereon shall not apply to laws of the Legislature of either of the new Dominions.

(4) No Act of Parliament of the United Kingdom passed on or after the appointed day shall extend, or be deemed to extend, to either of the new Dominions as part of the law of that Dominion unless it is extended thereto by a law of the Legislature of the Dominion.

(5) No Order in Council made on or after the appointed day under any Act passed before the appointed day, and no order, rule or other instrument made on or after the appointed day under any such Act by any United Kingdom Minister or other authority, shall extend, or be deemed to extend, to either of the new Dominions as part of the law of that Dominion.

(6) The power referred to in sub-section (1) of this section extends to the making of laws limiting for the future the powers of the Legislature of the Dominion.

Consequences of the setting up of the new Dominions.

7. (1) As from the appointed day—

(a) His Majesty's Government in the United Kingdom have no responsibility as respects the government of any of the territories which, immediately before that day, were included in British India;

(b) the suzerainty of His Majesty over the Indian States lapses, and with it, all treaties and agreements in force at the date of the passing of this Act between His Majesty and the rulers of Indian States, all functions exercisable by His Majesty at that date with respect to Indian States, all obligations of His Majesty existing at that date towards Indian States or the rulers thereof, and all powers, rights, authority or jurisdiction exercisable by His Majesty at that date in or in relation to Indian States by treaty, grant, usage, sufferance or otherwise ; and

(c) there lapse also any treaties or agreements in force at the date of the passing of this Act between His Majesty and any persons having authority in the tribal areas, any obligations of His Majesty existing at that date to any such persons or with respect to the tribal areas, and all powers, rights, authority or jurisdiction exercisable at that date by His Majesty in or in relation to the tribal areas by treaty, grant, usage, sufferance or otherwise :

Provided that, notwithstanding anything in paragraph (b) or paragraph (c) of this sub-section, effect shall, as nearly as may be continued to be given to the provisions of any such agreement as is therein referred to which relate to customs, transit and communications, posts and telegraphs, or other like matters, until the provisions in question are denounced by the ruler of the Indian State or person having authority in the tribal areas on the one hand, or by the Dominion or Province or other part thereof concerned on the other hand, or are superseded by subsequent agreements.

(2) The assent of the Parliament of the United Kingdom is hereby given to the omission from the Royal Style and Titles of the words "Indiæ Imperator" and the words "Emperor of India" and to the issue by His Majesty for that purpose of His Royal Proclamation under the Great Seal of the Realm.

Temporary provision as to government of each of the new Dominions.

8. (1) In the case of each of the new Dominions, the powers of the Legislature of the Dominion shall, for the purpose of making provision as to the constitution of the Dominion, be exercisable in the first instance by the Constituent Assembly of that Dominion, and references in this Act to the Legislature of the Dominion shall be construed accordingly.

(2) Except in so far as other provision is made by or in accordance with a law made by the Constituent Assembly of the Dominion under sub-section (1) of this section, each of the new Dominions and all Provinces and other parts thereof shall be governed as nearly as may be in accordance with the Government of India Act, 1935 ; and the provisions of that Act, and of the Oders in Council, rules and other instruments made thereunder, shall, so far as applicable, and subject to any express provisions of this Act, and with such omissions, additions, adaptations, and modifications as may be specified in orders of the Governor-General under the next succeeding section, have effect accordingly :

Provided that—

(a) the said provisions shall apply separately in relation to each of the new Dominions and nothing in this sub-section shall be construed as continuing on or after the appointed day any Central Government or Legislature common to both the new Dominions ;

(b) nothing in this sub-section shall be construed as continuing in force on or after the appointed day any form of control by His Majesty's Government in the United Kingdom over the affairs of the new Dominions or of any Province or other part thereof ;

(c) so much of the said provisions as requires the Governor-General or any Governor to act in his discretion or exercise his individual judgment as respects any matter shall cease to have effect as from the appointed day ;

(d) as from the appointed day, no Provincial Bill shall be reserved under the Government of India Act, 1935, for the signification of His Majesty's pleasure, and no Provincial Act shall be disallowed by His Majesty thereunder ; and

(e) the powers of the Federal Legislature or Indian Legislature under that Act, as in force in relation to each Dominion, shall, in the first instance, be exercisable by the Constituent Assembly of the Dominion, in addition to the powers exercisable by that Assembly under sub-section (1) of this section.

(3) Any provision of the Government of India Act, 1935, which, as applied to either of the new Dominions by sub-section (2) of this section

and the orders therein referred to, operates to limit the power of the legislature of that Dominion shall, unless and until other provision is made by or in accordance with a law made by the Constituent Assembly of the Dominion in accordance with the provisions of sub-section (1) of this section, have the like effect as a law of the Legislature of the Dominion limiting for the future the powers of that Legislature.

Orders for bringing this Act into force.

9. (1) The Governor-General shall by order make such provision as appears to him to be necessary or expedient—

(a) for bringing the provisions of this Act into effective operation ;

(b) for dividing between the new Dominons, and between the new Provinces, to be constituted under this Act, the powers, rights, property, duties and liabilities of the Governor-General in Council or, as the case may be, of the relevant Provinces which, under this Act, are to cease to exist ;

(c) for making omissions from, additions to, and adaptations and modifications of, the Government of India Act, 1935, and the Orders in Council, rules and other instruments made thereunder, in their application to the separate new Dominions ;

(d) for removing difficulties arising in connection with the transition to the provisions of this Act ;

(e) for authorizing the carrying on of the business of the Governor-General in Council between the passing of this Act and the appointed day otherwise than in accordance with the provisions in that behalf of the Ninth Schedule to the Government of India Act, 1935 ;

(f) for enabling agreements to be entered into, and other acts done, on behalf of either of the new Dominions before the appointed day ;

(g) for authorising the continued carrying on for the time being on behalf of the new Dominions, or on behalf of any two or more of the said new Provinces, of services and activities previously carried on on behalf of British India as a whole or on behalf of the former Provinces which those new Provinces represent ;

(h) for regulating the monetary system and any matters pertaining to the Reserve Bank of India ; and

(i) so far as it appears necessary or expedient in connection with any of the matters aforesaid, for varying the constitution, powers or jurisdiction of any legislature, court or other authority in the new Dominions and creating new legislatures, courts or oher authorities therein.

(2) The powers conferred by this section on the Governor-General shall, in relation to their respective Provinces, be exercisable also by the Governors of the Provinces which, under this Act, are to cease to exist; and those powers shall, for the purposes of the Government of India Act, 1935, be deemed to be matters as respects which the Governors are, under that Act, to exercise their individual judgment.

(3) This section shall be deemed to have had effect as from the third day of June, nineteen hundred and forty-seven and any order of the Governor-General or any Governor made on or after that date as to any matter shall have effect accordingly, and any order made under this section may be made so as to be retrospective to any date not earlier than the said third day of June:

Provided that no person shall be deemed to be guilty of an offence by reason of so much of any such order as makes and provision thereof retrospective to any date before the making thereof.

(4) Any orders made under this section, whether before or after the appointed day, shall have effect—

(a) up to the appointed day, in British India;

(b) on and after the appointed day, in the new Dominion or Dominions concerned; and

(c) outside British India, or as the case may be, outside the new Dominion or Dominions concerned, to such extent, whether before, on or after the appointed day, as a law of the Legislature of the Dominion or Dominions concerned would have on or after the appointed day,

but shall, in the case of each of the Dominions, be subject to the same powers of repeal and amendment as laws of the Legislature of that Dominion.

(5) No order shall be made under this section, by the Governor of any Province, after the appointed day, or, by the Governor-General, after the thirty-first day of March, nineteen hundred and forty-eight, or such earlier date as may be determined, in the case of either Dominion, by any law of the Legislature of that Dominion.

(6) If it appears that a part of the Province of Assam is, on the appointed day, to become part of the new Province of East Bengal, the preceding provisions of this section shall have effect as if, under this Act, the Province of Assam was to cease to exist on the appointed day and be reconstituted on that day as a new Province.

Secretary of State's services, etc.

10. (1) The provisions of this Act keeping in force provisions of the Government of India Act, 1935, shall not continue in force the provisions of that Act relating to appointments to the civil services of, and civil posts under, the Crown in India by the Secretary of State, or the provisions of that Act relating to the reservation of posts.

(2) Every person who—

(a) having been appointed by the Secretary of State, or Secretary of State in Council, to a civil service of the Crown in India continues on and after the appointed day to serve under the Government of either of the new Dominions or of any Province or part thereof; or

(b) having been appointed by His Majesty before the appointed day to be a Judge of the Federal Court or of any Court which is a High Court within the meaning of theGovernment of India Act, 1935, continues on and after the appointed day to serve as a judge in either of the new Dominions,

shall be entitled to receive from the Governments of the Dominions and Provinces or parts which he is from time to time serving or, as the case may be, which are served by the courts in which he is from time to time a judge, the same conditions of service as respects remuneration, leave and pension, and the same rights as respects disciplinary matters or, as the case may be, as respects the tenure of his office, or rights as similar thereto as changed circumstances may permit, as that person was entitled to immediately before the appointed day.

(3) Nothing in this Act shall be construed as enabling the rights and liabilities of any person with respect to the family pension funds vested in Commissioners under section two hundred and seventy-three of the Government of India Act, 1935, to be governed otherwise than by Orders in Council made (whether before or after the passing of this Act or the appointed day) by His Majesty in Council and rules made (whether before

or after the passing of this Act or the appointed day) by a Secretary of State or such other Minister of the Crown as may be designated in that behalf by Order in Council under the Ministers of the Crown (Transfer of Functions) Act, 1946.

Indian armed forces.

11. (1) The orders to be made by the Governor-General under the preceding provisions of this Act shall make provision for the division of the Indian armed forces of His Majesty between the new Dominions, and for the command and governance of those forces until the division is completed.

(2) As from the appointed day, while any member of His Majesty's forces, other than His Majesty's Indian forces, is attached to or serving with any of His Majesty's Indian forces—

(a) he shall, subject to any provision to the contrary made by a law of the Legislature of the Dominion or Dominions concerned or by any order of the Governor-General under the preceding provisions of this Act, have, in relation to the Indian forces in question, the powers of command and punishment appropriate to his rank and functions; but

(b) nothing in any enactment in force at the date of the passing of this Act shall render him subject in any way to the law governing the Indian forces in question.

British forces in India.

12. (1) Nothing in this Act affects the jurisdiction or authority of His Majesty's Government in the United Kingdom, or of the Admiralty, the Army Council, or the Air Council or of any other United Kingdom authority, in relation to any of His Majesty's forces which may, on or after the appointed day, be in either of the new Dominions or elsewhere in the territories which, before the appointed day, were included in India, not being Indian forces.

(2) In its application in relation to His Majesty's military forces, other than Indian forces, the Army Act shall have effect on or after the appointed day—

(a) as if His Majesty's Indian forces were not included in the expressions "the forces", "His Majesty's forces" and "the regular forces"; and

(b) subject to the further modifications specified in Parts I and II of the Third Schedule to this Act.

(3) Subject to the provisions of sub-section (2) of this section, and to any provisions of any law of the Legislature of the Dominion concerned, all civil authorities in the new Dominions, and, subject as aforesaid and subject also to the provisions of the last preceding section, all service authorities in the new Dominions, shall, in those Dominions and in the other territories which were included in India before the appointed day, perform in relation to Hise Majesty's military forces, not being Indian forces, the same functions as were, before the appointed day, performed by them, or by the authorities corresponding to them, whether by virtue of the Army Act or otherwise, and the matters for which provision is to be made by orders of the Governor-General under the preceding provisions of this Act shall include the facilitating of the withdrawal from the new Dimonions and other territories aforesaid of His Majesty's military forces, not being Indian forces.

(4) The provisions of sub-sections (2) and (3) of this section shall apply in relation to the air forces of His Majesty, not being Indian air

forces, as they apply in relation to His Majesty's military firces, subject, however, to the necessary adaptations, and, in particular, as if—

(a) for the references to the Army Act there were substituted references to the Air Force Act; and

(b) for the reference to Part II if the Third Schedule to this Act there were substituted a reference to Part III of that Schedule.

Naval Forces.

13. (1) In the application of the Naval Discipline Act to His Majesty's Naval Forces, other than Indian Naval Forces, referenres to His Majesty's navy and His Majesty's ships shall not, as from the appointed day, include references to His Majesty's Indian navy or the ships thereof.

(2) In the application of the Naval Discipline Act by virtue of any law made in India before the appointed day to Indian naval forces, references to His Majesty's navy and His Majesty's ships shall, as from the appointed day, be deemed to be, and to be only, references to His Majesty's Indian navy and the ships thereof.

(3) In section ninety B of the Naval Discipline Act (which, in certain cases, subjects officers and men of the Royal Navy and Riyal Marines to the law and customs of the ships and naval forces of other parts of His Majesty's dominions) the words "or of India" shall be repealed as from the appointed day, wherever those words occur.

Provisions as to the Secretary of State and the Auditor of Indian Home Accounts.

14. (1) A Secretary of State, or such other Minister of the Crown as may be designated in that behalf by Order in Council under the Ministers of the Crown (Transfer of Functions) Act, 1946, is hereby authorised to continue for the time being the performance, on behalf of whatever government or governments may be concerned, of functions as to the making of payments and other matters similar to the functions which, up to the appointed day, the Secretary of State was performing on behalf of governments constituted or continued under the Government of India Act, 1935.

(2) The functions referred to in sub-section (1) of this section include functions as respects the management of, and the making of payments in respect of, government debt, and any enactments relating to such debt shall have effect accordingly:

Provided that nothing in this sub-section shall be construed as continuing in force so much of any enactment as empowers the Secretary of State to contract sterling loans on behalf of any such Government as aforesaid or as applying to the Government of either of the new Dominions the prohibition imposed on the Governor-General in Council by section three hundred and fifteen of the Government of India Act, 1935, as respects the contracting of sterling loans.

(3) As from the appointed day, there shall not be any such advisers of the Secretary of State as are provided for by section two hundred and seventy-eight of the Government of India Act, 1935, and that section, and any provisions of that Act which require the Secretary of State to obtain the concurrence of his advisers, are hereby repealed as from that day.

(4) The Auditor of Indian Home Accounts is hereby authorised to continue for the time being to exercise his functions as respects the accounts of the Secretary of State or any such other Minister of the Crown as is mentioned in sub-section (1) of this section, both in respect of activities before, and in respect of activities after, the appointed day, in he same

manner, as nearly as may be as he would have done if this Act had not passed.

Legal proceedings by and against the Secretary of State.

15. (1) Notwithstanding anything in this Act, and in particular, notwithstanding any of the provisions of the last preceding section, any provision of any enactment which, but for the passing of this Act, would authorise legal proceedings to be taken, in India or elsewhere, by or against the Secretary of State in respect of any right or liability of India or any part of India shall cease to have effect on the appointed day, and any legal proceedings pending by virtue of any such provision on the appointed day shall, by virtue of this Act, abate on the appointed day, so far as the Secretary of State is concerned.

(2) Subject to the provisions of this sub-section, any legal proceedings which, but for the passing of this Act, could have been brought by or against the Secretary of State in respect of any right or liability of India, or any part of India, shall instead be brought—

(a) in the case of proceedings in the United Kingdom, by or against the High Commissioner;

(b) in the case of other proceedings, by or against such person as may be designated by order of the Governor-General under the preceding provisions of this Act or otherwise by the law of the new Dominion concerned,

and any legal proceedings by or against the Secretary of State in respect of any such right or liability as aforesaid which are pending immediately before the appointed day shall be continued by or against the High Commissioner or, as the case may be, the person designated as aforesaid:

Provided that, at any time after the appointed day, the right conferred by this sub-section to bring or continue proceedings may, whether the proceedings are by, or are against, the High Commissioner or person designated as aforesaid, be withdrawn by a law of the Legislature of either of the new Dominions so far as that Dominion is concerned, and any such law may operate as respects proceedings pending at the date of the passing of the law.

(3) In this section, the expression "the High Commissioner" means, in relation to each of the new Dominions, any such officer as may for the time being the authorised to perform in the United Kingdom, in relation to that Dominion, functions similar to those performed before the appointed day, in relation to the Governor-General in Council, by the High Commissioner referred to in section three hundred and two of the Government of India Act, 1935; and any legal proceedings which, immediately before the appointed day, are the subject of an appeal to His Majesty in Council, or of a petition for special leave to appeal to His Majesty in Council, shall be treated for the purposes of this section as legal proceedings pending in the United Kingdom.

Aden.

16. (1) Sub-sections (2) to (4) of section two hundred and eighty-eight of the Government of India Act, 1935 (which confer on His Majesty power to make by Order in Council provision for the government of Aden) shall cease to have effect and the British Settlements Acts, 1887 and 1945, (which authorise His Majesty to make laws and establish institutions for British Settlements as defined in those Acts) shall apply in relation to Aden as if it were a British Settlement as so defined.

(2) Notwithstanding the repeal of the said sub-sections (2) and (4), the Orders in Council in force thereunder at the date of the passing of this Act shall continue in force, but the said Orders in Council, any other

Orders in Council made under the Government of India Act, 1935, in so far as they apply to Aden, and any enactments applied to Aden or amended in relation to Aden by any such Orders in Council as aforesaid, may be repealed, revoked or amended under the powers of the British Settlements Acts, 1887 and 1945.

(3) Unless and until provision to the contrary is made as respects Aden under the powers of the British Settlements Acts, 1887 and 1945, or, as respects the new Dominion in question, by a law of the Legislature of that Dominion, the provisions of the said Orders in Council and enactments relating to appeals from any courts in Aden to any courts which will after the appointed day, be in either of the new Dominions, shall continue in force in their application both to Aden and to the Dominion in quesion, and the last mentioned courts shall exercise their jurisdiction accordingly.

Divorce jurisdiction.

17. (1) No court in either of the new Dominions shall, by virtue of the Indian and Colonial Divorce Jurisdiction Acts, 1926 and 1940, have jurisdiction in or in relation to any proceedings for a decree for the dissolution of a marriage, unless those proceedings were instituted before the appointed day, but, save as aforesaid and subject to any provision to the contrary which may hereafter be made by any Act of the Parliament of the United Kingdom or by any law of the Legislature of the new Dominion concerned, all courts in the new Dominions shall have the same jurisdiction under the said Acts as they would have had if this Act had not been passed.

(2) Any rules made on or after the appointed day under sub-section (4) of section one of the Indian and Colonial Divorce Jurisdiction Act, 1926, for a court in either of the new Dominions shall, instead to being made by the Secretary of State with the concurrence of the Lord Chancellor, be made by such authority as may be determined by the law of the Dominion concerned, and so much of the said sub-section and of any rules in force thereunder immediately before the appointed day as require the approval of the Lord Chancellor to the nomination for any purpose of any judges of any such court shall cease to have effect.

(3) The reference in sub-section (1) of this section to proceedings for a decree for the dissolution of a marriage include references to proceedings for such a decree of presumption of death and dissolution of a marriage as is authorised by section eight of the Matrimonial Causes Act, 1937.

(4) Nothing in this section affects any court iutside the new Dominions, and the power conferred by section two of the Indian and Colonial Divorce Jurisdiction Act, 1926, to apply certain provisions of that Act to other parts of His Majesty's Dominions as they apply to India shall be deemed to be power to apply those provisiins as they would have applied to India if this Act had not passed.

Provisions as to existing laws, etc.

18. (1) In so far as any Act of Parliament, Order in Council, order, rule, regulation or other instrument passed or made before the appointed dav operates otherwise than as part of the law of British India or the new Dominions, references therein to India or British India, however worded and whether by name or not, shall, in so far as the context permits and except so far as Parliament may hereafter otherwise provide, be construed as, or as including, references to the new Dominions, taken together, or taken separately, according as the circumstances and subject matter may require:

Provided that nothing in this sub-section shall be construed as continuing

in operation any provision in so far as the continuance thereof as adapted by this sub-section is inconsistent with any of the provisions of this Act other than this section.

(2) Subject to the provisions of sub-section (1) of this section and to any other express provision of this Act, the Orders in Council made under sub-section (5) of section three hundred and eleven of the Government of India Act, 1935, for adapting and modifying Acts of Parliament shall, except so far as Parliament may hereafter otherwise provide, continue in force in relation to all Acts in so far as they operate otherwise than as part of the law of British India or the new Dominions.

(3) Save as otherwise expressly provided in this Act, the law of British India and of the several parts thereof existing immediately before the appointed day shall, so far as applicable and with the necessary adaptations, continue as the law of each of the new Dominions and the several parts thereof until other provision is made by laws of the Legislature of the Dominion in question or by any other Legislature or other authority having power in that behalf.

(4) It is hereby declared that the Instruments of Instructions issued before the passing of this Act by His Majesty to the Governor-General and the Governors of Provinces lapse as from the appointed day, and nothing in this Act shall be construed as continuing in force any provision of the Government of India Act, 1935, relating to such Instruments of Instructions.

(5) As from the appointed day, so much of any enactment as requires the approval of His Majesty in Council to any rules of court shall not apply to any court in either of the new Dominions.

Interpretation, etc.

19. (1) References in this Act to the Governor-General shall, in relation to any order to be made or other act done on or after the appointed day, be construed—

(a) where the order or other Act concerns one only of the new Dominions, as references to the Governor-General of that Dominion ;

(b) where the order or other Act concerns both of the new Dominions and the same person is the Governor-General of both those Dominions, as references to that person ; and

(c) in any other case, as references to the Governor-General of the new Dominions, acting jointly.

(2) References in this Act to the Governor-General shall, in relation to any order to be made or other Act done before the appointed day, be construed as references to the Governor-General of India within the meaning of the Government of India Act, 1935, and so much of that or any other Act as requires references to the Governor-General to be construed as references to the Governor-General in Council shall not apply to references to the Governor-General in this Act.

(3) References in this Act to the Constituent Assembly of a Dominion shall be construed as references—

(a) in relation to India, to the Constituent Assembly, the first sitting whereof was held on the ninth day of December, nineteen hundred and forty-six, modified—

(i) by the exclusion of the members representing Bengal, the Punjab, Sind and British Baluchistan ; and

(ii) should it appear that the North-West Frontier Province will form part of Pakistan, by the exclusion of the members representing that Province ; and

(iii) by the inclusion of members representing West Bengal and East Punjab ; and

(iv) should it appear that, on the appointed day, a part of the Province of Assam is to form part of the new Province of East Bengal, by the exclusion of the members theretofore representing the Province of Assam, and the inclusion of members chosen to represent the remainder of that Province ;

(b) in relation to Pakistan, to the Assembly set up or about to be set up at the date of the passing of this Act under the authority of the Governor-General as the Constituent Assembly for Pakistan ;

Provided that nothing in this sub-section shall be construed as affecting the extent to which representatives of the Indian States take part in either of the said Assemblies, or as preventing the filling of casual vacancies in the said Assemblies, or as preventing the participation in either of the said Assemblies in accordance with such arrangements as may be made in that behalf, of representatives of the tribal areas on the borders of the Dominions for which that Assembly sits, and the powers of the said Assemblies shall extend, and be deemed always to have extended, to the making of provision for the matters specified in this proviso.

(4) In this Act, except so far as the context otherwise requires—,

References to the Government of India Act, 1935, include references to any enactments amending or supplementing that Act, and, in particular, references to the India (Central Government and Legislature) Act, 1946 ;

"India", where the reference is to a state of affairs existing before the appointed day or which would have existed but for the passing of this Act, has the meaning assigned to it by section three hundred and eleven of the Government of India Act(1935 ;

"Indian forces" includes all His Majesty's Indian forces existing before the appointed day and also any forces of either of the new Dominions;

"Pension" means, in relation to any person, a pension, whether contributory or not, of any kind whatsoever payable to or in respect of that person, and includes retired pay so payable, a gratuity so payable and any sum or sums so payable by way of the return, with or without interest thereon or other additions thereto, of subscriptions to a provident fund ;

"Province" means a Governor's Province ;

"remuneration" includes leave pay, allowances and the cost of any privileges or facilities provided in kind.

(5) Any power conferred by this Act to make any order includes power to revoke or vary any order previously made in the exercise of that power.

Short title.

20. This Act may be cited as the Indian Independence Act, 1947.

FIRST SCHEDULE

Section 3.

BENGAL DISTRICTS PROVISIONALLY INCLUDED IN THE NEW PROVINCE OF EAST BENGAL.

In the Chittagong Division, the districts of Chittagong, Noakhali and Tippera.

In the Dacca Division, the districts of Bakarganj, Dacca, Faridpur and Mymensingh.

In the Presidency Division, the districts of Jessore, Murshidabad and Nadia.,

In the Rajshahi Division, the districts of Bogra, Dinajpur, Malda, Pabna, Rajshahi and Rangpur.

SECOND SCHEDULE

Section 4.

DISTRICTS PROVISIONALLY INCLUDED IN THE NEW PROVINCE OF WEST PUNJAB.

In the Lahore Division, the districts of Gujranwala, Gurdaspur, Lahore, Sheikhupura and Sialkot.

In Rawalpindi Division, the Districts of Attack, Gujrat, Jhelum, Mianwali, Rawalpindi and Shahpur.

In the Multan Division, the districts of Dera Ghazi Khan, Jhang, Lyallpur, Montgomery, Multan and Muzaffargarh.

THIRD SCHEDULE

Section 12.

MODIFICATIONS OF ARMY ACT AND AIR FORCE ACT IN RELATION TO BRITISH FORCES.

PART I.

Modifications of Army Act applicable also to Air Force Act.

1. The proviso to section forty-one (which limits the jurisdiction of courts martial) shall not apply to offences committed in either of the new Dominions or in any of the other territories which were included in India before the appointed day.

2. In section forty-three (which relates to complaints), the words "with the approval of the Governor-General of India in Council" shall be omitted.

3. In sub-sections (8) and (9) of section fifty-four (which, amongst other things, require certion sentences to be confirmed by the Governor General in Council) the words "India or", the words "by the Governor-General, or, as the case may be" and the words "In India, by the Governor-General, or, if he has been tried" shall be omitted.

4. In sub-section (3) of section seventy-three (which provides for the nomination of officers with power to dispense with courts martial for desertion and fraudulent enlistment) the words "with the approval of the Governor-General" shall be omitted.

5. The powers conferred by sub-section (5) of section one hundred and thirty (which provides for the removal of insane persons) shall not be exercised except with the consent of the officer commanding the forces in the new Dominions.

6. In sub-section (2) of section one hundred and thirty-two (which relates to rules regulating service prisons and detention barracks) the words

"and in India for the Governor-General" and the words "the Governor-General" shall be omitted except as respects rules made before the appointed day.

7. In the cases specified in sub-section (1) of section one hundred and thirty-four, inquests shall be held in all cases in accordance with the provisions of sub-section (3) of that section.

8. In section one hundred and thirty-six (which relates to deductions from pay), in sub-section (1) the words "India or" and the words "being in the case of India a law of the Indian legislature", and the whole of sub-section (2), shall be omitted.

9. In paragraph (4) of section one hundred and thirty-seven (which relates to penal stoppages from the ordinary pay of officers), the words "or in the case of officers serving in India the Governor-General" the words "India or" and the words "for India or, as the case may be" shall be omitted.

10. In paragraph (12) of section one hundred and seventy-five and paragraph (11) of section one hundred and seventy six (which apply the Act to certain members of His Majesty's Indian Forces and to certain other persons) the word "India" shall be omitted wherever it occurs.

11. In sub-section (1) of section one hundred and eighty (which provides for the punishment of misconduct by civilians in relation to courts-martial) the words "India or" shall be omitted wherever they occur.

12. In the provisions of section one hundred and eighty-three relating to the reduction in rank of noncommissioned officers, the words "with the approval of the Governor-General" shall be omitted in both places where they occur.

PART II.

Modifications of Army Act.

Section 184B (which regulates relations with the Indian Air Force) shall be omitted.

PART III.

Modifications of Air Force Act.

1. In section 179D (which relates to the attachment of officers and airmen to Indian and Burma Air Forces), the words "by the Air Council and the Governor-General of India, or, as the case may be", and the words "India or", wherever those words occur, shall be omitted.

2. In section 184B (which regulates relations with Indian and Burma Air Forces) the words "India or" and the words "by the Air Council and the Governor-General of India or, as the case may be", shall be omitted.

3. Sub-paragraph (e) of paragraph (4) of section one hundred and ninety (which provides that officers of His Majesty's Indian Air Force are to be officers within the meaning of the Act) shall be omitted.

[1]V. THE INDIA (PROVISIONAL CONSTITUTION) ORDER, 1947.

(As amended by the India Provisional Constitution and Provincial Legislatures (Amendment) Order, 1947 and the India Provisional Constitution (Second Amendment) Order, 1947.)

WHEREAS by sub-section (2) of section 8 of the Indian Independence Act, 1947 (hereafter in the recitals to this Order referred to as the said Act), it is provided that except in so far as other provision is made by or in accordance with a law made by the Constituent Assembly of the Dominion under sub-section (1) of the said section, each of the new Dominions and all Provinces and other parts thereof shall be governed as nearly as may be in accordance with the provisions of the Government of India Act, 1935, and that the provisions of that Act shall, so far as applicable and subject to any express provisions of the said Act and with such omissions, additions, adaptations and modifications as may be specified in orders of the Governor-General under the next succeeding section of the said Act have effect accordingly;

AND WHEREAS by paragraph (c) of sub-section (1) of section 9 of the said Act it is provided that the Governor-General shall by order make such provision as appears to him to be necessary or expedient for making omissions from, additions to, and adaptations and modifications of, the Government of India Act, 1935, in its application to the separate new Dominions;

AND WHEREAS by sub-section (4) of section 19 of the said Act it is provided that in the said Act, except so far as the context otherwise requires, references to the Government of India Act, 1935, include references to any enactments amending or supplementing that Act and in particular references to the India (Central Government and Legislature) Act, 1946;

NOW THEREFORE in exercise of the powers conferred by the said provisions of the said Act, the Governor-General is pleased to make the following Order:—

1. (1) This Order may be cited as the India (Provisional Constitution) Order, 1947.

(2) It shall come into force on the fifteenth day of August 1947, which day is hereinafter referred to as "the appointed day."

2. (1) In this Order 'India" means the Dominion of India.

(2) Where a provision of the Government of India Act, 1935, has been amended before the appointed day, a reference to that provision in the Schedule to this Order shall be read as referring to the provision as in force immediately before the appointed day.

(3) The Interpretation Act, 1889, applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

3. (1) As from the appointed day, the Government of India Act, 1935, including the provisions of that Act which have not come into force before the appointed day, and the India (Central Government and Legislature) Act, 1946, shall, until other provision is made by or in accordance with a law made by the Constituent Assembly of India, apply to India with the omissions, additions, adaptations and modifications directed in the following provisions of this paragraph and in the Schedule to this Order.

(2) The following expressions shall be omitted wherever they occur, namely, "in his discretion", "acting in his discretion" and 'exercising his individual judgment".

(3) For each expression specified in the first column of the following Table, wherever that expression occurs, there shall be substituted the expression specified in the corresponding entry in the second column of the Table.

TABLE.

existing India law	existing law.
existing India Act	existing law.
Federation	Dominion.
Federal Government	Dominion Government.
Federal law	Dominion law.
Federal Legislature	Dominion Legislature.
Federated	Acceding.
a Federated	an Acceding.

1. No. G. G. O. 14, dated 14-8-1947, Gazette of India, 1947, Extraordinary, page 834.

4. Where the Schedule to this Order requires that in any specified provision certain words shall be substituted for certain other words or that certain words shall be omitted, that substitution or omission, as the case may be, shall, unless otherwise expressly provided, be made wherever the words referred to appear in that provision.

5. Where any instrument is in force under any provision of the Government of India Act, 1935, immediately before the appointed day, and that provision remains in force, whether with or without modifications, on and after the appointed day, the said instrument shall, so far as applicable and with any necessary modifications, remain in force as from that day as if it were an instrument of the appropriate kind duly made by the appropriate authority under the said provision as in force after that day, and may be varied or revoked accordingly.

6. Where any law made by the Governor of a Province by virtue of section 93 of the Government of India Act, 1935, is in force immediately before the appointed day, the said law, notwithstanding that the said section is directed to be omitted in the Schedule to this Order or that by reason of such omission a Proclamation under the said section ceases to have effect, shall remain in force for the period for which it would have remained in force if the said section had been at all material times in operation.

7. (1) Subject to any general or special orders or arrangements affecting his case, any person who immediately before the appointed day is holding any civil post under the Crown in connection with the affairs of the Governor-General or Governor-General in Council or of a Province other than Bengal or the Punjab shall, as from that day, be deemed to have been duly appointed to the corresponding post under the Crown in connection with the affairs of the Dominion of India or, as the case may be, of the Province.

(2) Notwithstanding that section 170 of the Government of India Act, 1935, is directed to be omitted in the Schedule to this Order, the person holding the office of the Auditor of Indian Home Accounts immediately before the appointed day is hereby authorised to continue, until such date as the Governor-General may specify, to perform such duties, and exercise such powers, in relation to transactions in the United Kingdom affecting the revenues of India or of any Province thereof as he was before the appointed day performing or exercising under the provisions of the said section 170.

THE SCHEDULE.

1.—The Government of India Act, 1935.

Section.	*Adaptations.*
2	Omit.
3	For this section substitute:— '3. *The Governor-General.*—The Governor-General of India is appointed by His Majesty by a Commission under the Royal Sign Manual."
4	Omit.
5	For this section substitute:— "5. *Establishment of the Dominion.*—(1) The Dominion of India established by the Indian Independence Act, 1947, shall as from the fifteenth day of August, 1947 be a Union comprising— (*a*) the Provinces hereinafter called Governors' Provinces, (*b*) the Provinces hereinafter called Chief Commissioners' Provinces, (*c*) the Indian States acceding to the Dominion in the manner hereinafter provided, and (*d*) any other areas that may with the consent of the Dominion be included in the Dominion. (2) The said Dominion of India is hereinafter in this Act referred to as "the Dominion" and the said fifteenth day of August is hereinafter in this Act referred to as 'the date of the establishment of the Dominion."

Section.	*Adaptations.*
6	For this section substitute:—
	"6. *Accession of Indian States.*— (1) An Indian State shall be deemed to have acceded to the Dominion if the Governor-General has signified his acceptance of an Instrument of Accession executed by the Ruler thereof whereby the Ruler on behalf of the State:— (*a*) declares that he accedes to the Dominion with the intent that the Governor-General, the Dominion Legislature, the Federal Court and any other Dominion authority established for the purposes of the Dominion shall, by virtue of his Instrument of Accession, but subject always to the terms thereof, and for the purposes only of the Dominion, exercise in relation to the State such functions as may be vested in them by order under this Act; and (*b*) assumes the obligation of ensuring that due effect is given within the State to the provisions of this Act so far as they are applicable therein by virtue of the Instrument of Accession.
	(2) An Instrument of Accession shall specify the matters which the Ruler accepts as matters with respect to which the Dominion Legislature may make laws for the State, and the limitations, if any, to which the power of the Dominion Legislature to make laws for the State, and the exercise of the executive authority of the Dominion in the State, are respectively to be subject.
	(3) A Ruler may, by a supplementary Instrument executed by him and accepted by the Governor-General, vary the Instrument of Accession of his State by extending the functions which by virtue of that Instrument are exercisable by any Dominion authority in relation to his State.
	(4) References in this Act to the Ruler of a State include references to any persons for the time being exercising the powers of the Ruler of the State, whether by reason of the Ruler's minority or for any other reason.
	(5) In this Act a State which has acceded to the Dominion is referred to as an Acceding State and the Instrument by virtue of which a State has so acceded, construed together with any supplementary Instrument executed under this section, is referred to as the Instrument of Accession of that State.
	(6) As soon as may be after any Instrument of Accession or supplementary Instrument has been accepted by the Governor-General under this section, copies of the Instrument and of the Governor-General's acceptance thereof shall be laid before the Dominion Legislature, and all courts shall take judicial notice of every such Instrument and acceptance".
7	In sub-section (2), omit all words after "by or under this Act."
8	In sub-section (1), for paragraphs (*a*), (*b*) and (*c*), substitute "to the matters with respect to which the Dominion Legislature has power to make laws, including the exercise of rights, authority and jurisdiction in and in relation to areas outside the Dominion", and in the proviso omit paragraphs (*iii*) and (*iv*).
9	For this section substitute:—
	"9. *Council of ministers.*—There shall be a council of ministers to aid and advise the Governor-

Section.	*Adaptations.*
	General in the exercise of his functions."
10	In sub-section (2), omit "either Chamber of". Omit sub-section (5).
11 to 15	Omit.
16	In sub-section (2), for "British India" substitute "any Governor's or Chief Commissioner's Province" and for "federal interests" substitute 'Dominion interests". Omit sub-section (4).
17	In sub-section (3), omit all words after "the said business". Omit sub-sections (4) and (5).
18	For this section substitute:— "18. *Constitution of the Dominion Legislature.*—The powers of the Dominion Legislature under this Act shall, until other provision is made by or in accordance with a law made by the Constituent Assembly under sub-section (1) of section 8 of the Indian Independence Act, 1947, be exercisable by that Assembly, and accordingly references in this Act to the Dominion Legislature shall be construed as references to the Constituent Assembly".
19	In sub-section (1), omit "The Chambers of". In sub-section (2), for "The Chambers" substitute "the Dominion Legislature", omit "or either Chamber", and omit paragraph (*c*). Omit sub-section (3).
20	In sub-section (1), omit "either Chamber of" and "or both Chambers assembled together". In sub-section (2), omit "either Chamber of" and for "a Chamber to whom any message is so sent" substitute "the Legislature".
21	Omit 'every counsellor". For "either Chamber, any joint sitting of the Chambers and any committee of the Legislature" substitute 'the Dominion Legislature or any committee thereof".
22	Omit sub-sections (1), (2), (3), and (5). In sub-section (4), for "and the Deputy President of the Council of State" substitute "of the Dominion Legislature", for "salaries" substitute "salary", and omit "respectively".
23	Omit "or Speaker". In sub-section (1), for "or joint sitting of the Chambers" substitute "of the Dominion Legislature". In sub-section (2), omit "A Chamber of". In sub-section (3), for "a Chamber" and 'the Chamber" substitute "the Legislature".
24 to 27	Omit.
28	In sub-section (1), omit "either Chamber of". In sub-section (2), for "the Chambers" substitute "the Dominion Legislature". Omit sub-sections (3) and (4). In sub-section (5), for "a Chamber" substitute "the Legislature".
29	For "either Chamber" substitute "Dominion Legislature".
30	For this section substitute:— "30. *Provision as to Pending Bills.*—(1) A Bill pending in the Dominion Legislature shall not lapse by reason of the prerogation of the Legislature. (2) A Bill which, immediately before the establishment of the Dominion, was pending in the Legislative Assembly of the Indian Legislature may, subject to any provision to the contrary which may be included in rules made by the Dominion Legislature under section 38 of this Act, be continued in the Dominion Legislature as if the proceedings taken with reference to the Bill in the said Legislative Assembly had been taken in the Dominion Legislature".
31	Omit.
32	In sub-section (1), for 'Chamber" substitute "Dominion Legislature", and omit "or that he reserves the Bill for the signification of His Majesty's pleasure". Omit sub-sections (2) and (3).

Section.	*Adaptations.*
33	In sub-section (1), omit "both Chambers of". In sub-section (2), omit all the words after "from other expenditure". In sub-section (3)— (*i*) in paragraph (*a*), for "required to be made by Order in Council" substitute "made by or under the Third Schedule to this Act"; (*ii*) for paragraph (*c*) substitute— "(*c*) the salaries and allowances of ministers, of the advocate-general, and of chief commissioners"; (*iii*) omit paragraphs (*e*), (*f*) and (*g*). Omit sub-section (4).
34	In sub-section (1) omit "either Chamber of" and "or paragraph (*f*)". In sub-section (2) for "Federal Assembly, and thereafter to the Council of State, and either Chamber" substitute "Dominion Legislature which", and omit the proviso. Omit sub-section (3).
35	In sub-section (1) for "Chambers" substitute "Legislature" and omit the proviso. In sub-section (2) for 'both Chambers" substitute "the Legislature". To sub-section (3), add:— "Provided that expenditure from the said revenues during the period beginning with the 15th day of August 1947 and ending with the 31st day of March 1948 may be authorised or ratified by general or special order of the Governor-General".
36	Omit "both Chambers of".
37	In sub-section (1) omit all words after "Governor-General." In sub-section (3) for "either Chamber" substitute "the Dominion Legislature" and for "that Chamber" substitute "the Legislature".
38	In sub-section (1), omit 'Each Chamber of" and the proviso. Omit sub-sections (2) and (4). In sub-section (3) after "with respect to" insert "the Legislative Assembly of" and for 'Governor-General" substitute "President of that Legislature".
39	Omit.
40	Omit sub-section (2).
42	For this section substitute:— "42. *Power of Governor-General to promulgate Ordinances in cases of emergency.*—The Governor-General may, in cases of emergency, make and promulgate Ordinances for the peace and good government of the Dominion or any part thereof, and any Ordinance so made shall, for the space of not more than six months from its promulgation, have the like force of law as an Act passed by the Dominion Legislature; but the power of making Ordinances under this section is subject to the like restrictions as the power of the Dominion Legislature under this Act to make laws; and any Ordinance made under this section may be controlled or superseded by any such Act."
43 to 45	Omit.
46	In sub-section (1) for the words from "Bengal" to "Sind" substitute "West Bengal, the United Provinces, East Punjab, Bihar, the Central Provinces and Berar, Assam and Orissa". Omit sub-section (2).
47	For this section substitute:— "47. *Provisions as to Berar.*—Berar shall continue to be governed together with the Central Provinces as one Governor's Province under this Act by the name of the Central Provinces and Berar and in the same manner as immediately before the establishment of the Dominion; and any references in this Act to the Dominion

Section.	*Adaptations.*
	of India shall be construed as including a reference to Berar".
48	For sub-section (1) substitute:— "(1) The Governor of a Province holding office as from the date of the establishment of the Dominion is appointed by His Majesty by a Commission under the Royal Sign Manual; but any person appointed thereafter to be the Governor of a Province shall be appointed by the Governor-General".
50	For this section substitute:— "50. *Council of ministers.*—There shall be a council of ministers to aid and advise the Governor in the exercise of his functions".
51	Omit sub-section (5).
52 to 54	Omit.
55	Omit sub-section (4).
56 to 58	Omit.
59	In sub-section (3) omit all words after "said business". Omit sub-section (4) (5).
60	In sub-section (1) for 'Bengal, the United Provinces, Bihar and Assam" substitute "the United Provinces and Bihar".
62	Omit sub-section (3).
67	For the words from "that one" to the end substitute 'the form set out in that behalf in the Fourth Schedule to this Act".
68	Omit sub-section (2).
69	In sub-section (1), in paragraph (*e*), omit "whether before or after the commencement of this part of this Act", and for "by a Court in British India or in a State which is a Federated State" substitute 'before the date of the establishment of the Dominion by a Court in British India, or on or after that date by a Court in a Governor's or Chief Commissioner's Province or an acceding State", and in paragraph (*f*) for "Federal" substitute "Dominion Legislature".
71	In sub-section (2) for the words from "commencement of this Part" to "Province" substitute "establishment of the Dominion enjoyed by members of that Chamber, or in the case of West Bengal and East Punjab, by members of the Provincial Legislative Assembles of Bengal and the Punjab, respectively".
72	Omit all words after "Legislature," and add the following proviso:— 'Provided that until other provision is so made, members of the Legislative Assemblies of West Bengal and East Punjab shall be entitled to receive salaries and allowances at such rates and upon such conditions as were immediately before the establishment of the Dominion applicable in the case of members of the Legislative Assemblies of Bengal and the Punjab, respectively".
74	In sub-section (2) omit "or affects the discharge of any of his special responsibilities" and the last sentence.
76	In sub-section (1) omit "or that he reserves the Bill for the signification of His Majesty's pleasure thereon". Omit sub-section (2).
77	Omit.
78	In sub-section (2) omit all words after "from other expenditure". In paragraph (*a*) of sub-section (3) for "required to be made by Order in Council" substitute "made by or under the Third Schedule to this Act". Omit sub-section (4).
80	Omit the proviso to sub-section (1). To sub-section (3), add:— "Provided that expenditure from the revenues of the Province of West Bengal or East Punjab during the period beginning with the 15th day of August 1947 and ending with the 31st day of March 1948 may be authorised or ratified by general or special order of the Governor".
83	Omit.
84	In sub-section (1) omit the proviso. In sub-section (2) omit the last sentence.

Section.	*Adaptations.*
	For sub-section (3) substitute:— "(3) Until rules are made under this section, the rules of procedure and standing orders in force immediately before the establishment of the Dominion with respect to the Legislative Assemblies of Bengal and the Punjab, respectively, shall have effect in relation to the Legislative Assemblies of West Bengal and East Punjab, subject to such modifications and adaptations as may be made therein by the Speakers of those Assemblies."
85	Omit.
86	Omit sub-section (2).
88	For the Proviso to sub-section (1) substitute:— "Provided that the Governor shall not, without instructions from the Governor-General, promulgate any such ordinance if an Act of the Provincial Legislature containing the same provisions would under this Act have been invalid unless, having been reserved for the consideration of the Governor-General, it had received assent of the Governor-General".
	In sub-section (2) omit paragraph (*b*).
89 & 90	Omit.
91	For this section substitute:— "91. *Excluded areas and partially excluded areas.*—In this Act, the expressions 'excluded area' and 'partially excluded area' mean respectively such areas as were excluded or partially excluded areas immediately before the establishment of the Dominion".
92	In sub-section (2) omit all words after 'shall have no effect".
	Omit sub-section (3).
93	Omit.
94	In sub-section (1) omit "British Baluchistan".
	Omit sub-section (2).
95	Omit.
96	For this section substitute:— "96. *The Andaman and Nicobar Islands.*—The Governor-General may make regulations for the peace and good government of the Andaman and Nicobar Islands, and any regulations so made may repeal or amend any Act of the Dominion Legislature or any existing law which is for the time being applicable to the Province, and, when promulgated by the Governor-General, shall have the same force and effect as an Act of the Dominion Legislature which applies to the Province".
97	For "His Majesty in Council" substitute "or in accordance with a law made by the Constituent Assembly under sub-section (1) of section 8 of the Indian Independence Act, 1947".
98	Omit.
99	In sub-section (1) for "for the whole or any part of British India or for any Federated State" substitute "(including laws having extra territorial operation) for the whole or any part of the Dominion".
	Omit sub-section (2).
102	For sub-section (3) substitute:— "(3) A Proclamation of Emergency may be revoked by a subsequent Proclamation".
104	Omit sub-section (2).
105	Omit.
107	In sub-section (2), omit "or for the signification of His Majesty's pleasure", and "or of His Majesty".
108	Omit.
109	In sub-section (2), in paragraph (a), for "by the Governor-General or by His Majesty" substitute "or by the Governor-General," and in paragraph (b), for 'either by the Governor-General or by His Majesty" substitute "by the Governor-General".
110 to 121	Omit.
123	Omit.
126	In the proviso to sub-section (2), omit "either Chamber of".
	Omit sub-section (4).

Section.	*Adaptations.*
	In sub-section (5), for the words from "Without prejudice" to "Governor of" substitute "The Executive Authority of the Dominion shall also extend to the giving of directions to".
126A	In paragraph (a), omit all words after 'exercised".
129	In sub-section (4), for "the Governor-General in his discretion" substitute "an arbitrator appointed by the Chief Justice of India".
	In sub-section (5), omit all words after "any part thereof".
131	Omit the proviso to sub-sections (5) and (7), the words 'His Majesty in Council or," and sub-section (9).
134	For "the Ruler whereof" substitute "unless the Ruler thereof," and for 'are not to apply" substitute "are to apply".
135	Omit "His Majesty upon consideration of representations addressed to him by".
	For "His Majesty in Council" substitute 'the Governor-General".
136	Omit "and subject to the provisions of this Act with respect to the Federal Railway Authority".
138	For "Federal" substitute "Dominion"; and for "subsequent Order in Council" substitute 'Order of the Governor-General".
	In sub-section (1), for "one per cent, or such other" substitute "such".
	In sub-section (4), for "His Majesty in Council" substitute "Order of the Governor-General", and omit "or of the Federal Railway Authority".
139	Omit.
140	In sub-section (2), for 'one-half or such greater proportion as His Majesty in Council may determine" substitute "such proportion as the Governor-General may by order determine".
142	For "His Majesty in Council" substitute "Order of the Governor-General", for "His Majesty" substitute "the Governor-General", and omit the proviso.
143	After sub-section (1) insert—
	"(1A) Nothing in the foregoing provisions of this Chapter authorizes the levy of any duty or tax by the Dominion in any acceding State unless provision in that behalf is made in the Instrument of Accession of that State".
145 to 149	Omit.
150	For "India" substitute "the Dominion".
151	Omit sub-section (2).
152	Omit.
153	Omit "either Chamber of".
154A	Omit "the Federal Railway Authority or" and "that authority or".
155	In sub-section (1), for "British India" substitute "India".
157 to 161	Omit.
162	Omit "Subject to the provisions of Part XIII of this Act with respect to borrowing in sterling."
163	In sub-section (4), for "the Governor-General and the decision of the Governor-General in his discretion shall be final" substitute "an arbitrator appointed by the Chief Justice of India, whose decision shall be final".
165	Omit.
166	In sub-section (2), for "His Majesty in Council" substitute "Order of the Governor-General."
	In sub-section (3), for "His Majesty in Council" substitute "the Governor-General".
167	In sub-section (1), for "His Majesty" substitute "the Governor" and omit "after the expiration of two years from the commencement of Part III of this Act".
	In paragraph (*b*) of sub-section (2), for "sub-section (3)" substitute "sub-sections (2) and (3)".
170 to 173	Omit.
175	In sub-section (1), omit the proviso.
	In sub-section (2), omit "or of the exercise of the functions of the Crown in its relations with the Indian States".
	In sub-section (3), omit "Subject to the provisions of this Act with

Section.	*Adaptations.*
	respect to the Federal Railway Authority".
176	Omit sub-section (2).
177	Omit.
178	Omit all sub-sections except sub-section (3). In sub-section (3), after "this Act" insert "and of the Indian Independence Act, 1947".
179 to 199	Omit.
200	In sub-section (1) for "as His Majesty" substitute "as the Governor-General" and for "an address has been presented by the Federal Legislature to the Governor-General for submission to His Majesty praying for" substitute "a resolution is passed by the Dominion Legislature approving". In sub-section (2), for "His Majesty by warrant under the Royal Sign Manual" substitute "order of the Governor-General" and in paragraph (*b*) of the proviso omit "by His Majesty" where those words occur for the second time. In sub-section (3), omit "in British India or in a Federated State" and paragraph (*i*) of the proviso. Add the following to sub-section (3):— "In this sub-section the expression 'High Court' includes a High Court in an acceding State and any Court which was a High Court in British India".
201	For "His Majesty in Council" substitute "the Governor-General".
202	In sub-section (1), for "appointed by His Majesty" substitute "permanently appointed" and for "for the purpose" substitute "as acting Chief Justice". In sub-section (2), for "appointed by His Majesty" substitute "permanently appointed."
204	In paragraph (*a*) of the proviso to sub-section (1).— in sub-paragraph (*i*), after the word "thereunder" insert "before the date of the establishment of the Dominion, or of an order made thereunder on or after that date, or the interpretation of the Indian Independence Act, 1947, or of any order made thereunder": for sub-paragraph (*iii*) substitute:— "(*iii*) arises under an agreement between the State and the Dominion or a Province, being an agreement which expressly provides that the said jurisdiction shall extend to such a dispute, and in the case of an agreement with a Province, has been made with the approval of the Governor-General".
205	In sub-section (1), omit "in British India", and after "made thereunder" insert "before the date of the establishment of the Dominion or any order made thereunder on or after that date, or as to the interpretation of the Indian Independence Act, 1947, or of any order made thereunder".
206	In sub-section (1), omit "in British India" and all words after "certificate as aforesaid". In sub-section (2), omit "in British India". In sub-section (3), omit "either Chamber of".
207	In sub-section (1), for "made thereunder or" substitute "made thereunder before the date of the establishment of the Dominon or an order made thereunder on or after that date, or concerns the interpretation of the Indian Independence Act, 1947, or of an order made thereunder or *concerns*".
208	In paragraph (*a*), for "made there under, or" substitute "made thereunder before the date of the establishment of the Dominion, or an order made thereunder on or after that date, or concerns the interpretation of the Indian Independence Act, 1947, or of an order made thereunder or concerns".
210	In sub-section (2), omit "as respects British India and the Federated States" and "in British India" and for "British India or of any" substitute "a Governor's Province, Chief Commissioner's Province or".
212	For "British India" substitute "any

Section.	*Adaptations.*
	Governor's Province or Chief Commissioner's Province," and for "thereunder" substitute "or order thereunder, or of the Indian Independence Act, 1947, or of any order thereunder".
216	Omit sub-section (2).
217	For "His Majesty" substitute "the Governor-General".
218	Omit "in British India" and for "outside British India" substitute "outside India."
219	For "British India" substitute "India." In sub-section (1) for the words from "Lahore" to "and in Sind" substitute "Patna and Nagpur, the High Court of East Punjab, the Chief Court in Oudh," for "His Majesty in Council" substitute "an Act of the appropriate Legislature," and in the proviso for the words from "has been made" to "then, as from" substitute "is made by His Majesty by Letters Patent for the establishment of a High Court to replace any court or courts mentioned in this sub-section, then, as from". Add the following sub-section:— "(3) In this Chapter, 'India' means the territories comprised in the Governors' Provinces and Chief Commissioners' Provinces, and does not include any Acceding State".
220	In sub-section (1), for "as His Majesty may" substitute "as the Governor-General may" and for "His Majesty in Council may fix" substitute "the Governor-General may by order fix". In sub-section (2), for "His Majesty may by warrant under the Royal Sign Manual" substitute "the Governor-General," in paragraph (*b*) of the proviso omit "by His Majesty" where those words occur for the second time, and in paragraph (*c*) omit "by His Majesty". In sub-section (3), omit the proviso, and after "shall be included" insert "and in computing the period during which a person has served as a judge of a High Court, or been a pleader of a High Court, or held judicial office in India, any period before the establishment of the Dominion during which the person has served as a judge or been a pleader of a High Court in British India or has held judicial office in India, as the case may be, shall be included".
221	For "His Majesty in Council" substitute "order of the Governor-General".
222	In sub-section (1), for "appointed by His Majesty" substitute "permanently appointed" and for "for the purpose" substitute "as acting chief justice". In sub-section (2), for "appointed by His Majesty" substitute "permanently appointed."
223	After "any other Act" insert "to the provisions of any order made under the Indian Independence Act, 1947," and for "commencement of Part III of this Act" substitute "establishment of the Dominion".
228	Omit sub-section (2).
230	In sub-section (1), for "His Majesty in Council" substitute "The Governor-General," for "extend" substitute "by order extend," and for "British India" substitute "India". In sub-section (2), for "commencement of Part III of this Act" substitute "establishment of the Dominion".
231	In sub-section (2), omit "and expenses".
232 to 239	Omit.
240	In sub-section (2), after "aforesaid" insert— "who having been appointed by the Secretary of State or the Secretary of State in Council continues after the establishment of the Dominion to serve under the Crown in India shall be dismissed from the service of His Majesty by any authority subordinate to the Governor-General or the Governor according as that person is serving in connection with the affairs of the

Section.	Adaptations.
	Dominion or of a Province, and no other such person as aforesaid".
241	In sub-section (1), omit "after the commencement of Part III of this Act". In sub-sections (2) to (5), omit "in India". In sub-section (3), in paragraph (*a*), for "some person empowered by the Secretary of State to give directions in that respect" substitute "the Governor-General or the Governor as the case may be," and in paragraph (*b*), for "Secretary of State or by some person empowered by the Secretary of State to give directions in that respect" substitute "Governor-General or the Governor as the case may be".
242	Omit sub-sections (1) and (2). In sub-section (3), after "to posts in the" insert "railway".
244 to 246	Omit
247	For this section, substitute— "247. *Conditions of service of persons originally recruited by Secretary of State.*—The conditions of service of all persons who, having been appointed by the Secretary of State or the Secretary of State in Council to a civil service of the Crown in India, continue on and after the date of the establishment of the Dominion to serve under the Government of the Dominion or of any Province, shall— (*a*) as respects persons serving in connection with the affairs of the Dominion, be such as may be prescribed by rules made by the Governor-General; (*b*) as respects persons serving in connection with the affairs of a Province— (*i*) in regard to their pay, leave, pensions, general rights as medical attendance and any other matter which immediately before the establishment of the Dominion was regulated by rules made by the Secretary of State, be such as may be prescribed by rules made by the Governor-General; and (ii) in regard to any other matter, be such as may be prescribed by rules made by the Governor of the province".
248 to 252	Omit.
253	In sub-section (1), for "Orders in Council" substitute "orders of the Governor-General," and for "His Majesty" substitute "the Governor-General". In sub-section (2), after "meaning of this Act" insert "as originally enacted". Omit sub-section (3).
257 to 259	Omit.
260	For the words from "commencement of Part III" to the end of the sub-section substitute "establishment of the Dominion shall, if it would have been payable by the Government of any Province if the Indian Independence Act, 1947, had not been passed, be paid out of the revenues of that Province, or, if that Province has ceased to exist, of such new Province as may be determined by orders made under that Act, and in any other case shall be paid out of the revenues of the Dominion of India or of Pakistan as may be so determined".
261	Omit.
262	Omit sub-sections (3) and (5). In paragraph (*a*) of the proviso to sub-section (4), for "is in the permanent service of the Crown in India" substitute "was in the permanent service of the Crown in India (within the meaning of this Act as originally enacted)".
265	In sub-section (1) omit "in India".
266	In sub-section (3) omit "The Secretary of State as respects services and posts to which appointments are made by him," and "other" before "services and posts". In sub-section (4) for the words from "the various communities" to "in India" substitute "communities or in the case of the subordinate ranks of police-forces".
267	Omit all words after "Governor".

Section.	*Adaptations.*
269 and 270	Omit.
271	In sub-section (2), for "Indian Code of Criminal Procedure" substitute "Code of Criminal Procedure, 1898" and for "Indian Code of Civil Procedure" substitute "Code of Civil Procedure, 1908," and omit "either chamber of". Omit sub-section (2). In sub-section (3), for "Indian Code of Civil Procedure" substitute "Code of Civil Procedure, 1908"
272 to 274	Omit.
275	Omit paragraph (*c*).
277	Omit sub-sections (2) and (3).
278 to 289	Omit.
290	In sub-section (1) for "His Majesty may by Order in Council" substitute "the Governor-General may by Order," and for the words from "before the draft" to "Chamber or Chambers of the Legislature" substitute "before making any such Order the Governor-General shall ascertain the views of the Government". For sub-section (2) substitute:— "(2) An Order made under this sub-section[2] may contain such provisions as the Governor-General may deem necessary or proper— (*a*) for varying the representation in the Dominion Legislature of any Governor's Province the boundaries of which are altered by the Order; (*b*) for varying the composition of the Legislature of any such province; (*c*) where a new Governor's Province is created for constituting the Legislature thereof; (*d*) for apportionments and adjustments of and in respect of assets and liabilities; and (*e*) for other supplemental, incidental and consequential matters."
291	For "His Majesty in Council may from time to time make provision" substitute "in relation to any Provincial Legislature, provision may be made by Act of that Legislature".
292 to 294	Omit.
295	Omit sub-section (1).
296	In sub-section (1) for "British India" substitute "a Governor's or Chief Commissioner's Province".
298	In sub-section (1) omit "British". Omit sub-section (3).
299	In sub-section (1) omit "in British India". In sub-section (3) omit "either Chamber of".
300	Omit.
302	Omit.
303	In sub-section (1) for "Bengal" substitute "West Bengal". Omit sub-section (3).
305A	Omit.
306	In sub-section (1) for "against the Governor of a Province, or against the Secretary of State" substitute "or against the Governor of a Province," for "His Majesty in Council" substitute "the Governor-General," after "has been the Governor-General" insert "His Majesty's Representative for the exercise of the functions of the crown in its relations with Indian States," and in the proviso for "a Province or the Secretary of State" substitute "or a Province". Omit sub-section (2).
307 to 310	Omit.
311	Omit sub-sections (1), (3), (4) and (5). In sub-section (2)— in the definition of "corresponding Province" for "His Majesty in Council" substitute "the Governor-General"; in the definition of "existing law," for "commencement of Part III of this Act" substitute "establishment of the Dominion," and after "territories" insert "which were"; in the definition of "pension" omit "in India, Burma or Aden"; in the definition of "Indian State

2. It appears that the word "sub-section" is a misprint for the word "section."

Section.	*Adaptations.*
	Railway" omit "the Federal Railway Authority".
	In sub-section (6) for "Federal" substitute "Dominion," and omit "or a Governor-General's Act" and "or a Governor's Act".
312 to 320	Omit.
19	In sub-section (2), for "Governor-General" substitute "President of the Dominion Legislature."
22	To sub-section (4), add the following:— "Any reference in this Act to the President of the Dominion Legislature shall, except in sections 19 and 38, be construed as including a reference to any other person elected by the Constituent Assembly to preside over that Assembly when it functions as the Dominion Legislature under this Act".
49	In sub-section (1), for "Federal" substitute "Dominion Legislature".
107	In the proviso to sub-section (2), omit "either Chamber of".
137	In the proviso, for "Federal purposes" substitute "Dominion purposes".
141	In sub-section (1), omit "either Chamber of".
150	In sub-section (2), for "Federal" substitute "Dominion Legislature".
166	In sub-section (1), for "His Majesty" substitute "the Governor-General".
176	In sub-section (1), for "Federal" substitute "Dominion Legislature".
178	In sub-section (3), for "Federal" substitute "Dominion Legislature".
220	In clause (c) of sub-section (3) omit "British".
225	For "Federal" substitute "Dominion".
226	In sub-section (2), for "in a Chamber of the Federal or a Provincial Legislature" substitute "in the Dominion Legislature in a Chamber of a Provincial Legislature".
242	In sub-section (4), for "said section" substitute "last preceding section".
296	In sub-section (1), for "Federal or" substitute "Dominion Legislature or of".
299	In sub-section (2), for "Federal" substitute "Dominion Legislature".
304	Omit "by His Majesty."
311	In sub-section (2), in the definition of "estate duty" for "Federal" substitute "Dominion".
First Schedule	Omit.
Second Schedule	Omit.
Third Schedule:	
	In paragraph 1 omit all entries after the entry relating to the Governor-General, and insert:— "The Governor of a Province 66,000 rupees. Provided that the annual salary payable to any person who having been the Governor of a Province immediately before the 15th day of August, 1947, continues to be the Governor of that Province, shall be the same as before that date".
	In paragraph 2 for "fixed by His Majesty in Council" substitute "fixed, as respects the Governor-General by Act of the Dominion Legislature, and as respects Governor by order of the Governor-General", and for "determined by His Majesty in Council" substitute "so determined".
	In paragraph 3 for "His Majesty in Council" substitute "such an Act, or, as the case may be, an order, as aforesaid".
	In paragraph 4 for "Order in Council" substitute "such an Act, or, as the case may be, an order, as aforesaid".
	In paragraph 5 for "appointed by His Majesty" substitute "appointed", and for "His Majesty in Council" substitute "such an Act, or as the case may be, an order as aforesaid".
	After paragraph 6 insert:— "7. Until other provision is made by Act of the Dominion Legislature, the Governor-General shall be entitled to the same allowances and privileges as he was entitled to immediately before the date of the

Section.	*Adaptations.*
	establishment of the Dominion under the rules and orders then in force."
Fourth Schedule:	
	For the Forms substitute:—
	1
	Form of oath or affirmation to be taken or made by a member of a Legislature:—
	"I, A. B., having been elected (*or* nominated *or* appointed) a member of this Council (*or* Assembly), do solemnly swear (*or* affirm) that I will bear true faith and allegiance to the Constitution of India as by law established, and that I will faithfully discharge the duty upon which I am about to enter."
	2
	Form of judicial oath or affirmation:—
	"I, A. B., having been appointed Chief Justice (*or* a judge) of the Court do solemnly swear (*or* affirm) that I will bear true faith and allegiance to the Constitution of India as by law established and that I will faithfully perform the duties of my office to the best of my ability, knowledge and judgment."
Fifth Schedule:	
	in sub-paragraph (*ii*) for "ten columns" substitute 'nine columns", and omit "(e) the European community".
	Omit the last sentence.
	In paragraph 5, for 'His Majesty in Council may deem" substitute "the Governor-General may by order declare", and omit "(*v*) for the election of persons to fill the European seats, if any".
	In paragraph 8, for "fifteen to nineteen" substitute "fourteen to eighteen".
	Omit paragraph 11.
	In paragraph 12, omit "by a European".
	In paragraph 14, for "fifth and sixth" substitute 'and fifth," omit "the European community," for "seventh" substitute "sixth," and for "eighth" substitute "seventh".
	In paragraph 15, for "His Majesty in Council may deem" substitute "the Governor-General may by order declare," and omit sub-paragraph (*iii*).
	In paragraph 16, omit "a European constituency," and "a European".
	In paragraph 19.—
	for the definitions of "a European," "an Anglo-Indian," "an Indian Christian" and "the Scheduled castes" substitute the following definitions:—
	"'a European' means a person whose father or any of whose other male progenitors in the male line is or was of European descent and who is not a native of India or Pakistan or any Indian State;
	'an Anglo-Indian' means a person whose father or any of whose other male progenitors in the male line is or was of European descent but who is a native of India, Pakistan or an Indian State;
	'an Indian Christian' means a person who professes any form of the Christian religion and is not a European or an Anglo-Indian;
	'the scheduled castes' means such castes, races, or tribes or parts or groups within castes, races or tribes, being casts, races, tribes, parts or groups which appear to the Governor-General to correspond to the classes of persons formerly known as 'the depressed classes' as the Governor-General may by order specify,"
	for "His Majesty in Council may from time to time" substitute "Governor-General may from time to time by order";
	for "His Majesty in Council" in the definition of "prescribed" substitute "Order of the Governor-General".
	In paragraph 20, for "His Majesty in Council" substitute 'order of the Governor-General".
	For the Tables of Seats substitute:—

For the Tables of Seats substitute:—

TABLE OF SEATS.

PROVINCIAL LEGISLATIVE ASSEMBLY.

Province.	*Total Seats.*	*General Seats.*											*Seats for Women.*				
		Total of General Seats.	*General Seats reserved for Scheduled Castes.*	*Seats for representatives of backward areas and tribes.*	*Sikh Seats.*	*Muhammadan Seats.*	*Anglo-Indian Seats.*	*Indian Christian Seats.*	*Seats for representatives of commerce, industry, mining and planting.*	*Landholders Seats.*	*University Seats.*	*Seats for representatives of Labour.*	*General.*	*Sikh.*	*Muhammadan.*	*Anglo-Indian.*	*Indian Christian.*
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)
Madras	212	146	39	1	..	28	2	8	6	6	1	6	6	..	1	..	1
Bombay	172	114	15	1	..	29	2	3	7	2	1	7	5	..	1	..	..
United Provinces	226	140	20	..	..	64	1	2	3	6	1	3	4	..	2	..	..
Bihar	150	86	15	7	..	39	1	1	4	4	1	3	3	..	1	..	..
Central Provinces and Berar ..	111	84	20	1	..	14	1	..	2	3	1	2	3	..	..	..	..
West Bengal	90	44	14	..	..	21	3	1	7	2	1	8	1	..	1	1	..
East Punjab	81	31	6	..	20	23	..	..	1	2	1	2	..	1	..	..	..
Assam	71	37	5	9	..	16	..	1	4	..	..	3	1	..	..	..	..
Orissa	60	44	6	5	..	4	..	1	1	2	..	1	2	..	..	..	..

In Bombay seven of the General Seats shall be reserved for Marathas.

In Assam and Orissa the Seats reserved for women shall be non-communal seats.

TABLE OF SEATS.

PROVINCIAL LEGISLATIVE COUNCIL.

Province.	*Total of Seats.*	*General Seats.*	*Muhammadan Seats.*	*Indian Christian Seats.*	*Seats to be filled by Legislative Assembly.*	*Seats to be filled by Governor.*
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Madras	Not less than 53 Not more than 55	35	7	3	..	Not less than 8. Not more than 10
Bombay	Not less than 28 Not more than 29	20	5	..	..	Not less than 3. Not more than 4.
United Provinces	Not less than 57 Not more than 59	34	17	..	..	Not less than 6. Not more than 8.
Bihar	Not less than 28 Not more than 29	9	4	..	12	Not less than 3. Not more than 4.

Section.	*Adaptations.*
	he is a person domiciled in India, Pakistan or an Indian State and born of parents habitually resident in the territories comprised therein and not established there for temporary purposes only".
	In paragraph 20, for "His Majesty in Council," substitute "order of the Governor-General".
Sixth Schedule:	
	In Part I.—
	in paragraph 5, omit "a European constituency" and "a European";
	in paragraph 6, omit "European constituency";
	in paragraph 12, for "British India police force" substitute "police force belonging to any Governor's Province or Chief Commissioner's Province";
	in sub-paragraph (1) of paragraph 13, omit 'European" and for "Part I of the First Schedule" substitute "the Fifth Schedule";
	in sub-paragraph (2) of paragraph 13, for 'an Order in Council delimiting territorial constituencies" substitute "the Government of India (Provincial Legislative Assemblies) Order, 1936, or an Act of the Provincial Legislature", after "any such Order in Council" insert "or Act", and omit "Europeon constituency".
	In paragraph 1 of Part III omit "European".

Section.	*Adaptations.*
	In Part IV.—
	in the Title, for "Bengal" substitute "West Bengal";
	in sub-paragraph (1) of paragraph 1, omit proviso (*b*);
	in paragraph 14, for "Bengal" substitute "West Bengal" and omit "European constituencies" and "European constituency".
	In Part VI, in the Title and in paragraph 10, for 'The Punjab" substitute "East Punjab".
	In Part IX.—
	in paragraph 1, omit the proviso;
	in paragraph 9A, omit "British".
	Omit Parts X and XII.
	In List I—
	for entry 1, substitute:—
Seventh Schedule:	
	"1. The naval, military and air forces of the Dominion and any other armed forces raised or maintained by the Dominion; and armed forces which are not forces of the Dominion but are attached to or operating with any of the armed forces of the Dominion; central intelligence bureau; preventive detention for reasons of state connected with defence, external affairs or relations with Acceding States";
	in entry 2, omit "(not being cantonment areas of Indian State troops)", and omit "within British India";

Section.	*Adaptations.*
	in entry 9, for 'Federal" substitute "Dominion";
	in entry 17, after "domiciled in India" insert 'or" and omit "or British subjects domiciled in the United Kingdom";
	in entries 34 and 36, for "Federal control" substitute "Dominion control";
	for entry 39, substitute:—
	'39. Extension of the powers and jurisdiction of members of a police force belonging to any province to any area in another province, but not so as to enable the police of one province exercise powers and jurisdiction in another province wihout the consent of the Government of that Province; extension of the powers and jurisdiction of members of a police force belonging to any unit to railway areas outside that unit.
	In this entry 'province' includes 'a Chief Commissioner's province' ";
	in entry 40, omit "and of any Order in Council made thereunder";
	in entry 41, for the words from 'Federal Ministers" to "Federal Assembly" substitute "Dominion Ministers and of the President and Deputy President of the Dominion Legislature", and omit "to such extent as is expressly authorised by Part II of this Act".
	In list II.—
	in entry 11, omit "and of any Order in Council made thereunder".
	in entries 23 and 29, for "Federal" substitute "Dominion";
	In entry 34 of List III, for 'Federal" substitute "Dominion".
Eighth Schedule.	Omit.
Ninth Schedule.	Omit.

PART II

SELECT CONSTITUTIONS OF THE WORLD

I. CONSTITUTION
OF
THE UNITED STATES OF AMERICA (1787).[1]

We, the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

Article I

Section 1.—All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2.—[2](1) The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

(2) No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

[2](3) Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose 3; Massachusetts, 8; Rhode-Island and Providence Plantations, 1; Connecticut, 5 New York, 6; New Jersey, 4; Pennsylvania, 8; Delaware, 1; Maryland, 6; Virginia, 10; North Carolina, 5; South Carolina, 5; and Georgia, 3.

(4) When vacancies happen in the representation from any State, the Executive Authority thereof shall issue writs of election to fill such vacancies.

(5) The House of Representatives shall choose their Speaker and other officers, and shall have the sole power of impeachment.

Section 3.—[3](1) The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote.

[4](2) Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the

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[1] Adopted Sept. 17, 1787: Effective Mar. 4, 1789.
[2] This clause is amended by Article XIV, Amendments.
[3] This clause is amended by Article XVII, Amendments.
[4] This clause is amended by Article XVII, Amendments.

third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the Legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.

(3) No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

(4) The Vice-President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

(5) The Senate shall choose their other officers, and also a President *pro tempore*, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

(6) The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside: and no person shall be convicted without the concurrence of two-thirds of the members present.

(7) Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honour, trust, or profit under the United States: but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

Section 4.—(1) The times, places and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

(2) The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

Section 5.—(1) Each House shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each House may provide.

(2) Each House may determine the rules of its proceedings, punish its members for disorderly behaviour, and with the concurrence of two-thirds expel a member.

(3) Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either House on any question shall, at the desire of one-fifth of those present, be entered on the journal.

(4) Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

Section 6.—(1) The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House they shall not be questioned in any other place.

(2) No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States, shall be a member of either House during his continuance in office.

Section 7.—(1) All bills for raising revenue shall originate in the House of Representatives but the Senate may propose or concur with amendments as on other bills.

(2) Every bill which shall have passed the House of Representatives and the Senate shall, before it becomes a law, be presented to the President of the United States; if he approves, he shall sign it, but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

(3) Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the Senate and the House of Representatives, according to the rules and limitations prescribed in the case of a bill.

Section 8.—The Congress shall have power:

(1) To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States.

(2) To borrow money on the credit of the United States.

(3) To regulate commerce with foreign nations, and among the several States and with the Indian tribes.

(4) To establish an uniform rule of naturalization and uniform laws on the subject of bankruptcies throughout the United States.

(5) To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures.

(6) To provide for the punishment of counterfeiting the securities and current coin of the United States.

(7) To establish post offices and post roads.

(8) To promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.

(9) To constitute tribunals inferior to the Supreme Court.

(10) To define and punish piracies and felonies committed on the high seas, and offences against the law of nations.

(11) To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.

(12) To raise and support armies, but no appropriations of money to that use shall be for a longer term than two years.

(13) To provide and maintain a navy.

(14) To make rules for the government and regulation of the land and naval forces.

(15) To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions.

(16) To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United

States, reserving to the States respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.

(17) To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of Government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings;—and

(18) To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

Section 9.—(1) The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

(2) The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

(3) No bill of attainder of *ex post facto* law shall be passed.

[5](4) No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

(5) No tax or duty shall be laid on articles exported from any State.

(6) No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another: nor shall vessels bound to, or from, one State, be obliged to enter, clear, or pay duties in another.

(7) No money shall be drawn from the Treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

(8) No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title of any kind whatever from any king, prince, or foreign State.

Section 10.—(1) No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, or grant any title of nobility.

(2) No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws, and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

(3) No State shall, without the consent of the Congress, lay any duty on tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

Article II

Section 1.—(1) The Executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years,

[5] This clause is amended by Article XVI, Amendments.

and, together with the Vice-President, chosen for the same term, be elected as follows:—

(2) Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative or person holding an office of trust or profit under the United States, shall be appointed an elector.

[6](3) The electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said House shall in like manner choose the President. But in choosing the President, the vote shall be taken by States, the representation from each State having one vote; a quorum, for this purpose, shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice President.

(4) The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

(5) No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years and been fourteen years a resident within the United States.

(6) In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office the same shall devolve on the Vice-President, and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

(7) The President shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

(8) Before he enters on the execution of his office he shall take the following oath or affirmation:—

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect, and defend the Constitution of the United States."

Section 2.—(1) The President shall be Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States when called into the actual service of the United States; he may require the opinion,

[6] This clause is superseded by Article XII, Amendments.

in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offences against the United States except in case of impeachment.

(2) He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the Courts of law, or in the heads of departments.

(3) The President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions, which shall expire at the end of their next session.

Section 3.—He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

Section 4.—The President, Vice-President, and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanours.

Article III

Section 1.—The judicial power of the United States shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the Supreme and inferior Courts, shall hold their offices during good behaviour, and shall at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

Section 2.—(1) The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority;—to all cases affecting ambassadors, other public ministers and consuls;—to all cases of admiralty and maritime jurisdiction;—to controversies to which the United States shall be a party;—to controversies between two or more States;—between a State and citizens of another State;—between citizens of different States;—between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens;—or subjects.

(2) In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

(3) The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

Section 3.—(1) Treason against the United States, shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open Court.

(2) The Congress shall have power to declare the punishment of treason but no attainder of treason shall work corruption of blood or forfeiture except during the life of the person attainted.

Article IV

Section 1.—Full faith and credit shall be given in each State to the public acts, records and judicial proceedings of every other State. And the Congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

Section 2.—(1) The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

(2) A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the Executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

(3) No person held to service or labour in one State, under the laws thereof, escaping into another shall, in consequence of any law or regulation therein, be discharged from such service or labour, but shall be delivered up on claim of the party to whom such service or labour may be due.

Section 3.—(1) New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of the Congress.

(2) The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.

Section 4.—The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and, on application of the Legislature, or of the Executive (when the Legislature cannot be convened), against domestic violence.

Article V

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the Ninth Section of the First Article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

Article VI

(1) All debts contracted and engagements entered into before the adoption of this Constitution shall be as valid against the United States under this Constitution as under the Confederation.

(2) This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land, and the Judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

(3) The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

Article VII

The ratification of the Conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

Done in Convention by the unanimous consent of the States present the Seventeenth day of September in the year of our Lord one thousand seven hundred and eighty-seven, and of the Independence of the United States of America the Twelfth. IN WITNESS whereof we have hereunto subscribed our names.

(*Here follow the signatures.*)

Articles in addition to, and amendment of, the Constitution of the United States of America, proposed by Congress, and ratified by the Legislatures of the several States, pursuant to the Fifth Article of the original Constitution.

[1](1791) **Article I**

The Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

[1](1791) **Article II**

A well-regulated militia, being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed.

[1](1791) **Article III**

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

[1](1791) **Article IV**

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

[1](1791) **Article V**

No person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use without just compensation.

[1](1791) **Article VI**

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be

[1] This is the year in which the Amendment came into operation.

confronted with the witness against him; to have compulsory process for obtaining witnesses in his favour, and to have the assistance of counsel for his defence.

[7](1791) **Article VII**

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States than according to the rules of the common law.

[7](1791) **Article VIII**

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

[7](1791) **Article IX**

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

[7](1791) **Article X**

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

[7](1798) **Article XI**

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State.

[7](1804) **Article XII**

The electors shall meet in their respective States, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which list they shall sign and certify, and transmit, sealed, to the seat of the Government of the United States, directed to the President of the Senate; the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-third of the whole number of Senators, and a

majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

[7](1865) Article XIII

Section 1.—Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2.—The Congress shall have power to enforce this article by appropriate legislation.

[7](1868) Article XIV

Section 1.—All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2.—Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abriged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3.—No person shall be a Senator or Representative in Congress or elector of President and Vice-President, or hold any office, civil or military under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same or given aid and comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each House, remove such disability.

Section 4.—The validity of the public debt of the United States, authorised by law, including debt incurred for payment of pensions and bounties for services in suppressing insurrection and rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

Section 5.—The Congress shall have power to enfoce, by appropriate legislation, the provisions of this article.

[7](1870) Article XV

Section 1.—The right of the citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, colour, or previous condition of servitude.

Section 2.—The Congress shall have power to enforce this article by appropriate legislation.

[1](1913) **Article XVI**

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

[1](1913) **Article XVII**

(1) The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislatures.

(2) When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: Provided that the Legislature of any State may empower the Executive thereof to make temporary appointments until the people fill the vacancies by election as the Legislature may direct.

(3) This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

[1](1919) **Article XVIII**

(1) After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to this jurisdiction thereof for beverage purposes is hereby prohibited.

(2) The Congress and the several States shall have concurrent power to enforce this Article by appropriate legislation.

(3) This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the Legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

[1](1920) **Article XIX**

(1) The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

(2) The Congress shall have power to enforce the provisions of this Article by appropriate legislation.

[1](1933) **Article XX**

Section 1.—The terms of the President and Vice-President shall end at Noon on the 20th day of January, and the terms of Senators and Representatives at Noon on the 3rd day of January, of the years in which terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

Section 2.—The Congress shall assemble at least once in every year, and such meeting shall begin at Noon on the 3rd day of January, unless they shall by law appoint a different day.

Section 3.—If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice-President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice-President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice-President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice-President shall have qualified.

Section 4.—The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice-President whenever the right of choice shall have devolved upon them.

Section 5.—Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

Section 6.—This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.

[7](1933) Article XXI

Section 1.—The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

Section 2.—The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

Section 3.—This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

[7](1951) Amendment XXII

Section 1.—No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.

Section 2.—This Article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress (so ratified on February 27, 1951).

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II. CONSTITUTION
OF
THE DOMINION OF CANADA (1867)

The British North America Act, 1867

[30 Vict., c. 3.—March 29, 1867][1]

Whereas the Provinces of Canada, Nova Scotia, and New Brunswick have expressed their desire to be federally united into one Dominion, under the Crown of the United Kingdom of Great Britain and Ireland, with a constitution similar in principle to that of the United Kingdom:

And whereas such a union would conduce to the welfare of the Provinces and promote the interest of the British Empire:

And whereas on the establishment of the union by authority of Parliament it is expedient, not only that the constitution of the legislative authority in the Dominion be provided for, but also that the nature of the Executive Government therein be declared:

And whereas it is expedient that provision be made for the eventual admission into the union of other parts of British North America:

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

I.—PRELIMINARY

1. This Act may be cited as "The British North America Act, 1867."

2. (*Repealed*).

II.—UNION

3. It shall be lawful for the Queen, by and with the advice of Her Majesty's most Honourable Privy Council, to declare by proclamation[1a] that on and after a day therein appointed, not being more than 6 months after the passing of this Act, the Provinces of Canada, Nova Scotia, and New Brunswick shall form and be one Dominion under the name of "Canada"; and on and after that day those three Provinces shall form and be one Dominion under that name accordingly.

4. Unless it is otherwise expressed or implied, the name "Canada" shall be taken to mean Canada as constituted under this Act.

5. Canada shall be divided into four Provinces, named "Ontario, "Quebec," "Nova Scotia" and "New Brunswick."

6. The parts of the Province of Canada (as it exists at the passing of this Act) which formerly constituted respectively the Provinces of Upper Canada and Lower Canada shall be deemed to be severed, and shall form two separate Provinces. The part which formerly constituted the Province of Upper Canada shall constitute the Province of Ontario; and the part which formerly constituted the Province of Lower Canada shall constitute the Province of Quebec.

7. The Provinces of Nova Scotia and New Brunswick shall have the same limits as at the passing of this Act.

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[1] Effective July 1, 1867.

[1a] The day appointed by proclamation of May 22, 1867 (*State Papers*, Vol. LVIII, page 524), was July 1, 1867.

8. In the general census of the population of Canada which is hereby required to be taken in the year 1871, and in every tenth year thereafter, the respective populations of the four Provinces shall be distinguished.

III.—EXECUTIVE POWER

9. The Executive Government and authority of and over Canada is hereby declared to continue and be vested in the Queen.

10. The provisions of this Act referring to the Governor-General extend and apply to the Governor-General for the time being of Canada, or the Chief Executive Officer or Administrator for the time being carrying on the Government of Canada on behalf and in the name of the Queen, by whatever title he is designated.

11. There shall be a Council to aid and advise in the Government of Canada to be styled "the Queen's Privy Council for Canada"; and the persons who are to be members of that Council shall be from time to time chosen and summoned by the Governor-General and sworn in as Privy Councillors, and members thereof may be from time to time removed by the Governor-General.

12. All powers, authorities and functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, Canada, Nova Scotia or New Brunswick, are at the union vested in or exercisable by the respective Governors or Lieutenant-Governors of those Provinces, with the advice, or with the advice and consent, of the respective Executive Councils thereof, or in conjunction with these Councils, or with any number of members thereof, or by those Governors or Lieutenant-Governors individually shall as far as the same continue in existence and capable of being exercised after the union in relation to the Government of Canada, be vested in and exercisable by the Governor-General, with the advice or with the advice and consent of or in conjunction with the Queen's Privy Council for Canada, or any members thereof, or by the Governor-General individually, as the case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland) to be abolished or altered by the Parliament of Canada.

13. The provisions of this Act referring to the Governor-General in Council shall be construed as referring to the Governor-General acting by and with the advise of the Queen's Privy Council for Canada.

14. It shall be lawful for the Queen, if Her Majesty thinks fit, to authorise the Governor-General from time to time to appoint any person or any persons jointly or severally to be his deputy or deputies within any part or parts of Canada, and in that capacity to exercise during the pleasure of the Governor-General such of the powers, authorities and functions of the Governor-General as the Governor-General deems it necessary or expedient to assign to him or them, subject to any limitations or directions expressed or given by the Queen; but the appointment of such a deputy or deputies shall not affect the exercise by the Governor-General himself of any power, authority or function.

15. The command-in-chief of the land and naval militia, and of all naval and military forces, of and in Canada, is hereby declared to continue and be vested in the Queen.

16. Until the Queen otherwise directs, the seat of Government of Canada shall be Ottawa.

IV.—LEGISLATIVE POWER

17. There shall be one Parliament for Canada, consisting of the Queen, and Upper House styled "the Senate," and the House of Commons.

18. The privileges, immunities and powers to be held, enjoyed and exercised by the Senate and by the House of Commons and by the members thereof

respectively shall be such as are from time to time defined by Act of the Parliament of Canada, but so that any Act of the Parliament of Canada defining such privileges, immunities and powers shall not confer any privileges, immunities or powers exceeding those at the passing of such Act held, enjoyed and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland and by the members thereof.

19. The Parliament of Canada shall be called together not later than 6 months after the union.

20. There shall be a session of the Parliament of Canada once at least in every year, so that 12 months shall not intervene between the last sitting of the Parliament in one session and its first sitting in the next session.

21. The Senate shall, subject to the provisions of this Act, consist of *120*[2] members, who shall be styled "Senators."

22.[2] In relation to the constitution of the Senate Canada shall be deemed to consist of *four* divisions:

(1) Ontario;

(2) Quebec;

(3) The maritime Provinces, Nova Scotia and New Brunswick;

Which *four* divisions shall (subject to the provisions of this Act) be equally represented in the Senate as follows: Ontario by 24 senators; Qubec by 24 senators; the Maritime Provinces *and Prince Edward Island* by 24 senators, 10 thereof representing Nova Scotia, 10 thereof representating New Brunswick, *and 4 thereof representing Prince Edward Island; the Western Privinces by 24 senators, 6 thereof representing Manitoba, 6 thereof representing British Combia, 6 thereof representing Saskatchewan, and 6 thereof representing Alberta, Newfounland shall be entitled to be represented in the Senate by 6 members.*

In the case of Quebec each of the 24 senators representing that Province shall be appointed for one of the 24 electoral divisions of Lower Canada specified in schedule A to chapter 1 of "The Consolidated statutes of Canada."

23. The qualifications of a senator shall be as follows:

(1) He shall be of the full age of 30 years.

(2) He shall be either a natural-born subject of the Queen, or a subject of the Queen naturalised by an Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of one of the Provinces of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, before the union, or of the Parliament of Canada after the union.

(3) He shall be legally or equitably seised as of freehold for his own use and benefit of lands or tenements held in free and common socage, or seised or possessed for his own use and benefit of lands or tenements held in franc-alleu or in roture, within the Province for which he is appointed, of the value of 4,000 dollars, over and above all rents, dues, debts, charges, mortgages and incumbrances due or payable out of or charged on or affecting the same.

(4) His real and personal property shall be together worth 4,000 dollars over and above his debts and liabilities.

(5) He shall be resident in the Province for which he is appointed.

(6) In the case of Quebec he shall have his real property qualification in the electoral division for which he is appointed, or shall be resident in that division.

24. The Governor-General shall from time to time, in the Queen's name, by instrument under the Great Seal of Canada, summon qualified persons to the Senate; and, subject to the provisions of this Act, every person so summoned shall become and be a member of the Senate and a senator.

25. *(Repeled).*

26. If at any time on the recommendation of the Governor-General the Queen thinks fit to direct that four or eight members be added to the Senate,

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[2] As amended by the British North America Acts, 1915 and 1949.

the Governor-General may by summons to four or eight qualified persons (as the case may be), representing equally the four divisions of Canada, add to the Senate accordingly.

27. In case of such addition being at any time made, the Governor-General shall not summon any person to the Senate, except on a further like direction by the Queen on the like recommendation, until each of the four divisions of Canada is represented by 24 senators and no more.

28. The number of senators shall not at any time exceed *110*.[3]

29. A senator shall, subject to the provisions of this Act, hold his place in the senate for life.

30. A senator may by writing under his hand addressed to the Governor-General resign his place in the Senate, and thereupon the same shall be vacant.

31. The place of a senator shall become vacant in any of the following cases:

(1) If for two consecutive sessions of the Parliament he fails to give his attendance in the Senate.

(2) If he takes an oath or makes a declaration or acknowledgment of allegiance, obedience or adherence to a foreign Power, or does an act whereby he becomes a subject or citizen, or entitled to the rights or privileges of a subject or citizen, of a foreign Power.

(3) If he is adjudged bankrupt or insolvent, or applies for the benefit of any law relating to insolvent debtors, or becomes a public defaulter.

(4) If he is attainted of treason or convicted of felony or of any infamous crime.

(5) If he ceases to be qualified in respect of property or of residence; provided that a senator shall not be deemed to have ceased to be qualified in respect of residence by reason only of his residing at seat of the Government of Canada while holding an office under that Government requiring his presence there.

32. When a vacancy happens in the Senate by resignation, death or otherwise, the Governor-General shall by summons to a fit and qualified person fill the vacancy.

33. If any question arises respecting the qualification of a senator or a vacancy in the Senate the same shall be heard and determined by the Senate.

34. The Governor-General may from time to time, by instrument under the Great Seal of Canada, appoint a senator to be Speaker of the Senate, and may remove him and appoint another in his stead.

35. Until the Parliament of Canada otherwise provides, the presence of at least 15 senators, including the Speaker, shall be necessary to constitute a meeting of the Senate for the exercise of its powers.

36. Questions arising in the Senate shall be decided by a majority of voices, and the Speaker shall in all cases have a vote, and when the voices are equal the decision shall be deemed to be in the negative.

37. The House of Commons shall, subject to the provisions of this Act, consist of 265 members, of whom 82 shall be elected for Ontario, 65 for Quebec, *12* for Nova Scotia and *10* for New Brunswick,[4] *14 for Manitoba, 22 for British Columbia, 4 for Prince Edward Island, 17 for Alberta, 17 for Saskatchewan, 7 for Newfoundland, 1 for the Yukon Territory and 1 for the Mackenzie district of the Northwest Territories.*

38. The Governor-General shall from time to time, in the Queen's name by instrument under the Great Seal of Canada, summon and call together the House of Commons.

39. A senator shall not be capable of being elected or of sitting or voting as a member of the House of Commons.

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[3] As amended by 1 (vi) of "The British North America Act, 1915".
[4] As amended by the Representation Act, 1952.

40. Until the Parliament of Canada otherwise provides, Onatario, Quebec, Nova Scotia and New Brunswick shall, for the pruposes of the election of members to serve in the House of Commons, be divided into electoral districts as follows:

1.—ONTARIO

Ontario shall be divided into the counties, ridings of counties, cities parts of cities, and towns enumerated in the first schedule to this Act, each whereof shall be an electoral district, each such district as numbered in that schedule being entitled to return one member.

2.—QUEBEC

Quebec shall be divided into 65 electoral districts composed of the 65 electoral divisions into which Lower Canada is at the passing of this Act divided under chapter 2 of "The Consolidated Statutes of Canada," chapter 75 of "The Consolidated Statutes for Lower Canada," and the Act of the Province of Canada of the 23rd year of the Queen, chapter 1, or any other Act amending the same in force at the union, so that each such electoral division shall be for the purposes of this Act an electoral district entitled to return one member.

3.—NOVA SCOTIA

Each of the 18 counties of Nova Scotia shall be an electoral district. The country of Halifax shall be entitled to return 2 members, and each of the other counties one member.

4.—NEW BRUNSWICK

Each of the 14 counties into which New Brunswick is divided, including the city and county of St. John, shall be an electoral district. The city of St. John shall also be a separate electoral district. Each of those 15 electoral districts shall be entitled to return one member.

41. Until the Parliament of Canada otherwise provides, all laws in force in the several Provinces, at the union relative to the following matters or any of them, namely,—the qualifications and disqualifications of persons to be elected or to sit or vote as members of the House of Assembly or Legislative Assembly in the several Provinces, the voters at elections of such members, the oaths to be taken by voters, the returning officers, their powers and duties, the proceedings at elections, the periods during which elections may be continued, the trial of controverted elections, and proceedings incident thereto, the vacating of seats of members, and the execution of new writs in case of seats vacated otherwise than by dissolution,—shall respectively apply to elections of members to serve in the House of Commons for the same several Provinces.

Provided that, until the Parliament of Canada otherwise provides, at any election for a member of the House of Commons for the district of Algoma, in addition to persons qualified by the law of the Province of Canada to vote, every male British subject, aged 21 years or upwards, being a householder, shall have a vote.

42. (*Repealed*).

43. (*Repealed*).

44. The House of Commons on its first assembling after a general election shall proceed with all practicable speed to elect one of its members to be Speaker.

45. In case of a vacancy happening in the office of Speaker by death, resignation or otherwise, the House of Commons shall with all practicable speed proceed to elect another of its members to be Speaker.

46. The Speaker shall preside at all meetings of the House of Commons.

47. Until the Parliament of Canada otherwise provides, in case of the absence for any reason of the Speaker from the chair of the House of Commons for a period of 48 consecutive hours, the House may elect another of its members to act as Speaker, and the member so elected shall during the continuance of such absence of the Speaker have and execute all the powers, privileges and duties of Speaker.

48. The presence of at least 20 members of the House of Commons shall be

necessary to constitute a meeting of the House for the exercise of its powers and for that purpose the Speaker shall be reckoned as a member.

49. Questions arising in the House of Commons shall be decided by a majority of voices other than that of the Speaker, and when the voices are equal, but not otherwise, the Speaker shall have a vote.

50. Every House of Commons shall continue for 5 years from the day of the return of the writs for choosing the House (subject to be sooner dissolved by the Governor-General), and no longer.

51. (1) Subject as hereinafter provided, the number of members of the House of Commons shall be two hundred and sixty-three and the representation of the provinces therein shall forthwith upon the coming into force of this section and thereafter on the completion of each decennial census be readjusted by such authority, in such manner, and from such time as the Parliament of Canada from time to time provides, subject and according to the following rules:

(1) There shall be assigned to each of the provinces a number of members computed by dividing the total population of the provinces by two hundred and sixty-one and by dividing the population of each province by the quotient so obtained, disregarding, except as hereinafter in this section provided, the remainder, if any, after the said process of division.

(2) If the total number of members assigned to all the provinces pursuant to rule one is less than two hundred and sixty-one, additional members shall be assigned to the provinces (one to a province) having remainders in the computation under rule one commencing with the province having the largest remainder and continuing with the other provinces in the order of the magnitude of their respective remainders until the total number of members assigned is two hundred and sixty-one.

(3) Notwithstanding anything in this section, if upon completion of a computation under rules one and two, the number of members to be assigned to a province is less than the number of senators representing the said province, rules one and two shall cease to apply in respect of the said province, and there shall be assigned to the said province a number of members equal to the said number of senators.

(4) In the event that rules one and two cease to apply in respect of a province then, for the purposes of computing the number of members to be assigned to the provinces in respect of which rules one and two continue to apply, the total population of the provinces shall be reduced by the number of the population of the province in respect of which rules one and two have ceased to apply and the number two hundred and sixty-one shall be reduced by the number of members assigned to such province pursuant to rule three.

(5) On any such readjustment the number of members for any province shall not be reduced by more than fifteen per cent below the representation to which such province was entitled under rules one to four of this sub-section at the last preceding readjustment of the representation of that province, and there shall be no reduction in the representation of any province as a result of which that province would have a smaller number of members than any other province that according to the results of the then last decennial census did not have a larger population; but for the purposes of any subsequent readjustment of representation under this section any increase in the number of members of the House of Commons resulting from the application of this rule shall not be included in the divisor mentioned in rules one to four of this sub-section.

(6) Such readjustment shall not take effect until the termination of the then existing Parliament.

(2) The Yukon Territory as constituted by chapter forty-one of the statutes of Canada, 1901, shall be entitled to one member, and such other part of Canada not comprised within a province as may from time to time be defined by the Parliament of Canada shall be entitled to one member.[4a]

[4a] As substituted by the British North America Act, 1952.

[5]**51A.** Notwithstanding anything in this Act, a Province shall always be entitled to a number of members in the House of Commons not less than the number of senators representing such Province.

52. The number of members of the House of Commons may be from time to time increased by the Parliament of Canada, provided the proportionate representation of the Provinces prescribed by this Act is not thereby disturbed.

Money Votes: Royal Assent

53. Bills for appropriating any part of the public revenue, or for imposing any tax or impost, shall originate in the House of Commons.

54. It shall not be lawful for the House of Commons to adopt or pass any vote, resolution, address or bill for the appropriation of any part of the public revenue, or of any tax or impost, to any purpose that has not been first recommended to that House by message of the Governor-General in the session in which such vote, resolution, address or bill is proposed.

55. Where a bill passed by the Houses of the Parliament is presented to the Governor-General for the Queen's assent, he shall declare, according to his discretion, but subject to the provisions of this Act and to Her Majesty's instructions, either that he assents thereto in the Queen's name, or that he withholds the Queen's assent, or that he reserves the bill for the signification of the Queen's pleasure.

56. Where the Governor-General assents to a bill in the Queen's name, he shall by the first convenient opportunity send an authentic copy of the Act to one of Her Majesty's Principal Secretaries of State, and if the Queen in Council within 2 years after receipt thereof by the Secretary of State thinks fit to disallow the Act, such disallowance (with a certificate of the Secretary of State of the day on which the Act was received by him) being signified by the Governor-General, by speech or message to each of the Houses of the Parliament or by proclamation, shall annual the Act from and after the day of such signification.

57. A bill reserved for the signification of the Queen's pleasure shall not have any force unless and until, within 2 years from the day on which it was presented to the Governor-General for the Queen's assent the Governor-General signifies, by speech or message to each of the Houses of the Parliament or by proclamation, that it has received the assent of the Queen in Council.

An entry of every such speech, message or proclamation shall be made in the journal of each House, and a duplicate thereof duly attested shall be delivered to the proper officer to be kept among the records of Canada.

V.—PROVINCIAL CONSTITUTIONS

Executive Power

58. For each Province there shall be an officer, styled "the Lieutenant-Governor," appointed by the Governor-General in Council by instrument under the Great Seal of Canada.

59. A Lieutenant-Governor shall hold office during the pleasure of the Governor-General; but any Lieutenant-Governor appointed after the commencement of the first session of the Parliament of Canada shall not be removable within 5 years from his appointment, except for cause assigned, which shall be communicated to him in writing within one month after the order for his removal is made, and shall be communicated by message to the Senate and to the House of Commons within one week thereafter if the Parliament is then sitting, and if not then within one week after the commencement of the next session of the Parliament.

60. The salaries of the Lieutenant-Governors shall be fixed and provided by the Parliament of Canada.

61. Every Lieutenant-Governor shall, before assuming the duties of his office, make and subscribe before the Governor-General or some person authorised

[5] Added by the British North America Act, 1915.

by him oaths of allegiance and office similar to those taken by the Governor-General.

62. The provisions of this Act referring to the Lieutenant-Governor extend and apply to the Lieutenant-Governor for the time being of each Province, or other the Chief Executive Officer or Administrator for the time being carrying on the Government of the Province, by whatever title he is designated.

63. The Executive Council of Ontario and of Quebec shall be composed of such persons as the Lieutenant-Governor from time to time thinks fit, and in the first instance of the following officers, namely,—the Attorney-General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, within Quebec the Speaker of the Legislative Council and the Solicitor-General.

64. The constitution of the executive authority in each of the Provinces of Nova Scotia and New Brunswick shall, subject to the provisions of this Act, continue as it exists at the union until altered under the authority of this Act.

65. All powers, authorities, and functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada or Canada were or are before or at the union vested in or exercisable by the respective Governors or Lieutenant-Governors of those Provinces, with the advice or with the advice and consent of the respective Executive Councils thereof, or in conjunction with those Councils, or with any number of members thereof, or by those Governors or Lieutenant-Governors individually, shall, as far as the same are capable of being exercised after the union in relation to the Government of Ontario and Quebec respectively, be vested in and shall or may be exercised by the Lieutenant-Governor of Ontario and Quebec respectively, with the advice or with the advice and consent of or in conjunction with the respective Executive Councils, or any members thereof, or by the Lieutenant Governor individually, as the case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland), to be abolished or altered by the respective Legislatures of Ontario and Quebec.

66. The provisions of this Act referring to the Lieutenant-Governor in Council shall be construed as referring to the Lieutenant-Governor of the Province acting by and with the advice of the Executive Council thereof.

67. The Governor-General in Council may from time to time appoint an Administrator to execute the office and functions of Lieutenant-Governor during his absence, illness or other inability.

68. Unless and until the Executive Government of any Province otherwise directs with respect to that Province, the seats of Government of the Provinces shall be as follows, namely,—of Ontario, the city of Toronto; of Quebec, the city of Quebec; of Nova Soctia, the city of Halifax and of New Brunswick, the city of Federation.

Legislative Power

1.—ONTARIO

69. There shall be a Legislature for Ontario consisting of the Lieutenant-Governor and of one House, styled "the Legislative Assembly of Ontario."

70. The Legislative Assembly of Ontario shall be composed of 82 members, to be elected to represent the 82 electoral districts set forth in the first schedule to this Act.

2.—QUEBEC

71. There shall be a Legislature for Quebec consisting of the Lieutenant-Governor and of two Houses, styled "the Legislative Council of Quebec" and "the Legislative Assembly of Quebec".

72. The Legislative Council of Quebec shall be composed of 24 members, to be appointed by the Lieutenant-Governor, in the Queen's name, by instrument under the Great Seal of Quebec, one being appointed to represent each of

the 24 electoral divisions of Lower Canada in this Act referred to, and each holding office for the term of his life, unless the Legislature of Quebec otherwise provides under the provisions of this Act.

73. The qualifications of the Legislative Councillors of Quebec shall be the same as those of the senators for Quebec.

74. The place of a Legislative Councillor of Quebec shall become vacant in the cases, *mutatis mutandis,* in which the place of senator becomes vacant.

75. When a vacancy happens in the Legislative Council of Quebec by resignation, death or otherwise, the Lieutenant-Governor, in the Queen's name, by instrument under the Great Seal of Quebec, shall appoint a fit and qualified person to fill the vacancy.

76. If any question arises respecting the qualification of a Legislative Councillor of Quebec, or a vacancy in the Legislative Council of Quebec, the same shall be heard and determined by the Legislative Council.

77. The Lieutenant-Governor may from time to time by instrument under the Great Seal of Quebec, appoint a member of the Legislative Council of Quebec to be Speaker thereof, and may remove him and appoint another in his stead.

78. Until the Legislature of Quebec otherwise provides, the presence of at least 10 members of the Legislative Council, including the Speaker, shall be necessary to constitute a meeting for the exercise of its powers.

79. Questions arising in the Legislative Council of Quebec shall be decided by a majority of voices, and the Speaker shall in all cases have a vote, and when the voices are equal the decision shall be deemed to be in the negative.

80. The Legislative Assembly of Quebec shall be composed of 65 members, to be elected to represent the 65 electoral divisions or districts of Lower Canada in this Act referred to, subject to alteration thereof by the Legislature of Quebec: Provided that it shall not be lawful to present to the Lieutenant-Governor of Quebec for assent any bill for altering the limits of any of the electoral divisions or districts mentioned in the second schedule to this Act, unless the second and third readings of such bill have been passed in the Legislative Assembly with the concurrence of the majority of the members representing all those electoral divisions or districts, and the assent shall not be given to such bill unless an address has been presented by the Legislative Assembly to the Lieutenant-Governor stating that it has been so passed.

3.—ONTARIO AND QUEBEC

81. (*Repealed*).

82. The Lieutenant-Governor of Ontario and of Quebec shall from time to time, in the Queen's name, by instrument under the Great Seal of the Province, summon and call together the Legislative Assembly of the Province.

83. Until the Legislature of Ontario or of Quebec otherwise provides, a person accepting or holding in Ontario or in Quebec any office, commission or employment, permanent or temporary, at the nomination of the Lieutenant-Governor, to which an annual salary, or any fee, allowance, emolument or profit of any kind or amount whatever from the Province is attached, shall not be eligible as a member of the Legislative Assembly of the respective Province, nor shall he sit or vote as such; but nothing in this section shall make ineligible any person being a member of the Executive Council of the respective Province, or holding any of the following offices, that is to say, the offices of Attorney-General, Secretary and Registrar of the Province, Treasurer of the Province, Commissioner of Crown Lands and Commissioner of Agriculture and Public Works, and in Quebec Solicitor-General, or shall disqualify him to sit or vote in the House for which he is elected, provided he is elected while holding such office.

84. Until the Legislatures of Ontario and Quebec respectively otherwise provide, all laws which at the union are in force in those Provinces respectively relative to the following matters, or any of them, namely,—the qualifications and disqualifications of person to be elected or to sit or vote as members of the

Assembly of Canada, the qualifications or disqualifications of voters, the oaths to be taken by voters, the returning officers, their powers and duties, the proceedings at elections, the periods during which such elections may be continued; and the trial of controverted elections and the proceedings incident thereto, the vacating of the seats of members and the issuing and execution of new writs in case of seats vacated otherwise then by dissolution,—shall respectively apply to elections of members to serve in the respective Legislative Assemblies of Ontario and Quebec.

Provided that, until the Legislature of Ontario otherwise provides at any election for a member of the Legislative Assembly of Ontario for the district of Algoma, in addition to persons qualified by the law of the Province of Canada to vote, every male British subject, aged 21 years or upwards, being a house-holder, shall have a vote.

85. Every Legislative Assembly of Ontario and every Legislative Assembly of Quebec shall continue for 4 years from the day of the return of the writs for choosing the same (subject nevertheless to either the Legislative Assembly of Ontario or the Legislative Assembly of Quebec being sooner dissolved by the Lieutenant-Governor of the Province), and no longer.

86. There shall be a session of the Legislature of Ontario and of that of Quebec once at least in every year, so that 12 months shall not intervene between the last sitting of the Legislature in each Province in one session and its first sitting in the next session.

87. The following provision of this Act respecting the House of Commons of Canada shall extend and apply to the Legislative Assemblies of Ontario and Quebec, that is to say,—the provisions relating to the election of a speaker originally and on vacancies, the duties of the Speaker, the absence of the Speaker, the quorum, and the mode of voting, as if those provisions were here re-enacted and made applicable in terms to each such Legislative Assembly.

4.—NOVA SCOTIA AND NEW BRUNSWICK

88. The constitution of the Legislature of each of the Provinces of Nova Scotia and New Brunswick shall, subject to the provisions of this Act, continue as it exists at the union until altered under the authority of this Act; and the House of Assembly of New Brunswick existing at the passing of this Act shall, unless sooner dissolved, continue for the period for which it was elected.

5.—ONTARIO, QUEBEC AND NOVA SCOTIA

89. (*Repealed*).

6.—THE FOUR PROVINCES

90. The following provisions of this Act respecting the Parliament of Canada, namely,—the provisions relating to appropriation and tax bills, recommendation of money votes, the assent to bills, the disallowance of Acts, and the signification of pleasure on bills reserved,—shall extend and apply to the Legislatures of the several Provinces as if those provisions were here re-enacted and made applicable in terms to the respective Provinces and the Legislatures thereof, with the substitution of the Lieutenant-Governor of the Province for the Governor-General, of the Governor-General for the Queen and for a Secretary of State, of one year for 2 years, and of the Province for Canda.

VI.—DISTRIBUTION OF LEGISLATIVE POWERS

Powers of the Parliament

91. It shall be lawful for the Queen, by and with the advice and consent of the Senate and House of Commons, to make laws for the peace, order and good government of Canada, in relation to all matters not coming within the classes of subjects by this Act assigned exclusively to the Legislatures of the Province; and for greater certainty, but not so as to restrict the generality of the foregoing terms of this section, it is hereby declared that (notwithstanding any-

thing in this Act) the exclusive legislative authority of the Parliament of Canada extend to all matters coming within the classess of subjects next hereinafter enumerated; that is to say:—

(1) The amendment from time to time of the Constitution of Canada, except as regards matters coming within the classes of subjects by this Act assigned exclusively to the Legislatures of the provinces, or as regards rights or privileges by this or any other Constitutional Act granted or secured to the Legislature or the Government of a province, or to any class of persons with respect to schools or as regards the use of the English or the French language or as regards the requirements that there shall be a session of the Parliament of Canada at least once each year, and that no House of Commons shall continue for more than five years from the day of the return of the Writs for choosing the House: provided, however, that a House of Commons may in time of real or apprehended war, invasion or insurrection be continued by the Parliament of Canada if such continuation is not opposed by the votes of more than one-third of the members of such House.[5a]

(1A) The public debt and property.

(2) The regulation of trade and commerce.

(2A) Unemployment Insurance.[6]

(3) The raising of money by any mode or system of taxation.

(4) The borrowing of money on the public credit.

(5) Postal service.

(6) The census and statistics.

(7) Militia, military and naval service, and defence.

(8) The fixing of and providing for the salaries and allowances of civil and other officers of the Government of Canada.

(9) Beacons, buoys, lighthouses and Sable Island.

(10) Navigation and shipping.

(11) Quarantine and the establishment and maintenance of marine hospitals.

(12) Sea coast and inland fisheries.

(13) Ferries between a Province and any British or foreign country or between two Provinces.

(14) Currency and coinage.

(15) Banking, incorporation of banks, and the issue of paper money.

(16) Savings banks.

(17) Weights and measures.

(18) Bills of exchange and promissory notes.

(19) Interest.

(20) Legal tender.

(21) Bankruptcy and insolvency.

(22) Patents of invention and discovery.

(23) Copyrights.

(24) Indians, and lands reserved for the Indians.

(25) Naturalisation and aliens.

(26) Marriage and divorce.

(27) The criminal law, except the constitution of courts of criminal jurisdiction, but including the procedure in criminal matters.

(28) The establishment, maintenance and management of penitentiaries.

(29) Such classes of subjects as are expressly excepted in the enumeration of the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces.

And any matter coming within any of the classes of subjects enumerated in this section shall not be deemed to come within the class of matters of a local or private nature comprised in the enumeration of the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces.

[5a] Inserted by the British North America Act (No. 2), 1949.

[6] Inserted by the British North America Act, 1940.

Exclusive Powers of Provincial Legislatures

92. In each Province the Legislature may exclusively make laws in relation to matters coming within the classes of subject next hereinafter enumerated; that is to say:—

(1) The amendment from time to time, notwithstanding anything in this Act, of the constitution of the Province, except as regards the office of Lieutenant-Governor.

(2) Direct taxation within the Province in order to the raising of a revenue for provincial purposes.

(3) The borrowing of money on the sole credit of the Province.

(4) The establishment and tenure of provincial offices and the appointment and payment of provincial officers.

(5) The management and sale of the public lands belonging to the Province and of the timber and wood thereon.

(6) The establishment, maintenance and management of public and reformatory prisons in and for the Province.

(7) The establishment, maintenance and management of hospitals, asylums, charities and eleemosynary institutions in and for the Province, other than marine hospitals.

(8) Municipal institutions in the Province.

(9) Shop, saloon, tavern, auctioneer and other licences in order to the raising of a revenue for provincial, local or municipal purposes.

(10) Local works and undertakings other than such as are of the following classes:—

(*a*) Lines of steam or other ships, railways, canals, telegraphs and other works and undertakings connecting the Province with any other or others of the Provinces, or extending beyond the limits of the Province.

(*b*) Lines of steamships between the Province and any British or foreign country.

(*c*) Such works as, although wholly situate within the Province, are before or after their execution declared by the Parliament of Canada to be for the general advantage of Canada or for the advantage of two or more of the Provinces.

(11) The incorporation of companies with provincial objects.

(12) The solemnisation of marriage in the Province.

(13) Property and civil rights in the Province.

(14) The administration of justice in the Province, including the constitution, maintenance and organisation of provincial courts, both of civil and of criminal jurisdiction, and including procedure in civil matters in those courts.

(15) The imposition of punishment by fine, penalty or imprisonment for enforcing any law of the Province made in relation to any matter coming within any of the classes of subjects enumerated in this section.

(16) Generally all matters of a merely local or private nature in the Province.

Education

93. In and for each Province the Legislature may exclusively make laws in relation to education, subject and according to the following provisions:—

(1) Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the Province at the union.

(2) All the powers, privileges and duties at the union by law conferred and imposed in Upper Canada on the separate schools and school trustees of the Queen's Roman Catholics subjects shall be and the same are hereby extended to the dissentient schools of the Queen's Protestant and Roman Catholic subjects in Quebec.

(3) Where in any Province a system of separate or dissentient schools exists by law at the union or is thereafter established by the Legislature of the Province, an appeal shall lie to the Governor-General in Council from any act or decision of any provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education.

(4) In case any such provincial law as from time to time seems to the Governor-General in Council requisite for the due execution of the provisions of this section is not made, or in case any decision of the Governor-General in Council on any appeal under this section is not duly executed by the proper provincial authority in that behalf, then and in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial laws for the due execution of the provisions of this section and of any decision of the Governor-General in Council under this section.

Uniformity of Laws in Ontario, Nova Scotia and New Brunswick

94. Notwithstanding anything in this Act, the Parliament of Canada may make provision for the uniformity of all or any of the laws relative to property and civil rights in Ontario, Nova Scotia and New Brunswick, and of the procedure of all or any of the courts in those three Provinces, and from and after the passing of any Act in that behalf the power of the Parliament of Canada to make laws in relation to any matter comprised in any such Act shall, notwithstanding anything in this Act, be unrestricted; but any Act of the Parliament of Canada making provision for such uniformity shall not have effect in any Province unless and until it is adopted and enacted as law by the Legislature thereof.

Agriculture and Immigration

95. In each Province the Legislature may make laws in relation to agriculture in the Province, and to immigration into the Province; and it is hereby declared that the Parliament of Canada may from time to time make laws in relation to agriculture in all or any of the Provinces, and to immigration into all or any of the Provinces; and any law of the Legislature of a Province relative to agriculture or to immigration shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of the Parliament of Canada.

VII.—JUDICATURE

96. The Governor-General shall appoint the judges of the superior, district and county courts in each Province, except those of the courts of probate in Nova Scotia and New Brunswick.

97. Until the laws relative to property and civil rights in Ontario, Nova Scotia and New Brunswick, and the procedure of the courts in those Provinces, are made uniform, the judges of the courts of those Provinces appointed by the Governor-General shall be selected from the respective bars of those Provinces.

98. The judges of the courts of Quebec shall be selected from the bar of that Province.

99. The judges of the superior courts shall hold office during good behaviour, but shall be removable by the Governor-General on address of the Senate and House of Commons.

100. The salaries, allowances and pensions of the judges of the superior, district and county courts (except the courts of probate in Nova Scotia and New Brunswick), and of the Admiralty courts in cases where the judges thereof are for the time being paid by salary, shall be fixed and provided by the Parliament of Canada.

101. The Parliament of Canada may, notwithstanding anything in this Act, from time to time provide for the constitution, maintenance and organisation of a General Court of Appeal for Canada, and for the establishment of any additional courts for the better administration of the laws of Canada.

VIII.—REVENUES; DEBTS; ASSETS; TAXATION

102. All duties and revenues over which the respective Legislatures of Canada, Nova Scotia and New Brunswick before and at the union had and have power of appropriation, except such portions thereof as are by this Act reserved to the respective Legislatures of the Provinces, or are raised by them in accordance with the special powers conferred on them by this Act, shall form one Consoli-

dated Revenue Fund, to be appropriated for the public service of Canada in the manner and subject to the charges in this Act provided.

103. The Consolidated Revenue Fund of Canada shall be permanently charged with the costs, charges and expenses incident to the collection, management and receipt thereof, and the same shall form the first charge thereon subject to be reviewed and audited in such manner as shall be ordered by the Governor-General in Council until the Parliament otherwise provides.

104. The annual interests of the public debts of the several Provinces of Canada, Nova Scotia and New Brunswick at the union shall form the second charge on the Consolidated Revenue Fund of Canada.

105. Unless altered by the Parliament of Canada, the salary of the Governor-General shall be £ 10,000 sterling money of the United Kingdom of Great Britain and Ireland, payable out of the Consolidated Revenue Fund of Canada, and the same shall form the third charge thereon.

106. Subject to the several payments by this Act charged on the Consolidated Revenue Fund of Canada, the same shall be appropriated by the Parliament of Canada for the public service.

107. All stocks, cash, banker's balances and securities for money belonging to each Province at the time of the union, except as in this Act mentioned, shall be the property of Canada, and shall be taken in reduction of the amount of the respective debts of the Provinces at the union.

108. The public works and property of each Province, enumerated in the third schedule to this Act, shall be the property of Canada.

109. All lands, mines, minerals and royalties belonging to the several Provinces of Canada, Nova Scotia and New Brunswick at the union, and all sums then due or payable for such lands, mines, minerals or royalties, shall belong to the several Provinces of Ontario, Quebec, Nova Scotia and New Brunswick in which the same are situate or arise, subject to any trusts existing in respect thereof, and to any interest other than that of the Province in the same.[7]

110. All assets connected with such portions of the public debt of each Province as are assumed by that Province shall belong to that Province.

111. Canada shall be liable for the debts and liabilities of each Province existing at the union.

112. Ontario and Quebec conjointly shall be liable to Canada for the amount (if any) by which the debt of the Province of Canada exceeds at the union 62,500,000 dollars, and shall be charged with interest at the rate of 5 per cent. per annum thereon.

113. The assets enumerated in the fourth schedule to this Act belonging at the union to the Province of Canada shall be the property of Ontario and Quebec conjointly.

114. Nova Scotia shall be liable to Canada for the amount (if any) by which its public debt exceeds at the union 8,000,000 dollars, and shall be charged with interest at the rate of 5 per cent. per annum thereon.

115. New Brunswick shall be liable to Canada for the amount (if any) by which its public debt exceeds at the union 7,000,000 dollars, and shall be charged with interest at the rate of 5 percent. per annum thereon.

116. In case the public debts of Nova Scotia and New Brunswick do not at the union amount to 8,000,000 and 7,000,000 dollars respectively, they shall respectively receive by half-yearly payments in advance from the Government of Canada interest at 5 per cent. per annum on the difference between the actual amounts of their respective debts and such stipulated amounts.

117. The several Provinces shall retain all their respective public property not otherwise disposed of in this Act, subject to the right of Canada to assume any lands or public property required for fortifications or for the defence of the country.

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[7] "The British North America Act, 1930," placed the Provinces of Manitoba, British Columbia, Alberta and Saskatchewan in a position of equality with the other Provinces of Confederation with respect to the administration and control of their natural resources.

118.[8] *Repealed.*

119. New Brunswick shall receive by half-yearly payments in advance from Canada for the period of 10 years from the union an additional allowance of 63,000 dollars per annum; but as long as the public debt of that Province remains under 7,000,000 dollars a deduction equal to the interest at 5 per cent. per annum on such deficiency shall be made from that allowance of 63,000 dollars.

120. All payments to be made under this Act, or in discharge of liabilities created under any Act of the Provinces of Canada, Nova Scotia and New Brunswick respectively, and assumed by Canada, shall, until the Parliament of Canada otherwise directs, be made in such form and manner as may from time to time be ordered by the Governor-General in Council.

121. All articles of the growth, produce or manufacture of any one of the Provinces shall, from and after the union, be admitted free into each of the other Provinces.

122. The customs and excise laws of each Province shall, subject to the provisions of this Act, continue in force until altered by the Parliament of Canada.

123. Where customs duties are, at the union, leviable on any goods, wares or merchandises in any two Provinces, those goods, wares and merchandises may, from and after the union, be imported from one of those Provinces into the other of them, on proof of payment of the customs duty leviable thereon in the Province of exportation, and on payment of such further amount (if any) of customs duty as is leviable thereon in the Province of importation.

124. Nothing in this Act shall affect the right of New Brunswick to levy the lumber dues provided in chapter 15 of title 3 of "The Revised Statutes of New Brunswick," or in any Act amending that Act before or after the union and not increasing the amount of such dues; but the lumber of any of the Provinces other than New Brunswick shall not be subject to such dues.

125. No lands or property belonging to Canada or any Province shall be liable to taxation.

126. Such portions of the duties and revenues over which the respective Legislatures of Canada, Nova Scotia and New Brunswick had before the union power of appropriation as are by this Act reserved to the respective Governments or Legislatures of the Provinces, and all duties and revenues raised by them in accordance with special powers conferred upon them by this Act, shall in each Province form one Consolidated Revenue Fund to be appropriated for the public service of the Province.

IX.—MISCELLANEOUS PROVISIONS

General

127. (*Repealed*).

128. Every member of the Senate or House of Commons of Canada shall before taking his seat therein take and subscribe before the Governor-General or some person authorised by him, and every member of a Legislative Council or Legislative Assembly of any Province shall before taking his seat therein take and subscribe before the Lieutenant-Governor of the Province or some person authorised by him, the oath of allegiance contained in the fifth schedule to this Act; and every member of the Senate of Canada and every member of the Legislative Council of Quebec shall also, before taking his seat therein, take and subscribe before the Governor-General, or some person authorised by him, the declaration of qualification contained in the same schedule.

129. Except as otherwise provided by this Act, all laws in force in Canada, Nova Scotia or New Brunswick at the union, and all courts of civil and criminal jurisdiction, and all legal commissions, powers and authorities, and all officers, judicial, administrative and ministerial, existing therein at the union, shall continue in Ontario, Quebec, Nova Scotia and New Brunswick respectively, as if the union had not been made; subject nevertheless (except with respect to such as are enacted

[8] Repealed by the Statute Law Revision Act, 1950.

by or exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland) to be repealed, abolished or altered by the Parliament of Canada, or by the Legislature of the respective Province, according to the authority of the Parliament or of that Legislature under this Act.

130. Until the Parliament of Canada otherwise provides, all officers of the several Provinces having duties to discharge in relation to matters other than those coming within the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces shall be officers of Canada, and shall continue to discharge the duties of their respective offices under the same liabilities, responsibilities and penalties as if the union had not been made.

131. Until the Parliament of Canada otherwise provides, the Governor-General in Council may from time to time appoint such officers as the Governor-General in Council deems necessary or proper for the effectual execution of this Act.

132. The Parliament and Government of Canada shall have all powers necessary or proper for performing the obligations of Canada or of any Province thereof, as part of the British Empire, towards foreign countries, arising under treaties between the Empire and such foreign countries.

133. Either the English or the French language may be used by any person in the debates of the Houses of the Parliament of Canada and of the Houses of the Legislature of Quebec; and both those languages shall be used in the respective records and journals of those Houses; and either of those languages may be used by any person or in any pleading or process in or issuing from any court of Canada established under this Act, and in or from all or any of the courts of Quebec.

The Acts of the Parliament of Canada and of the Legislature of Quebec shall be printed and published in both those languages.

Ontario and Quebec

134. Until the Legislature of Ontario or of Quebec otherwise provides, the Lieutenant-Governors of Ontario and Quebec may each appoint under the Great Seal of the Province the following officers, to hold office during pleasure, that is to say, the Attorney-General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, and in the case of Quebec the Solicitor-General, and may, by order of the Lieutenant-Governor in Council, from time to time prescribe the duties of those officers, and of the several departments over which they shall preside or to which they shall belong, and of the officers and clerks thereof, and may also appoint other and additional officers to hold office during pleasure, and may from time to time prescribe the duties of those officers, and of the several departments over which they shall preside or to which they shall belong, and of the officers and clerks thereof.

135. Until the Legislature of Ontario or Quebec otherwise provides, all rights, powers, duties, functions, responsibilities or authorities at the passing of this Act vested in or imposed on the Attorney-General, Solicitor-General, Secretary and Registrar of the Province of Canada, Minister of Finance, Commissioner of Crown Lands, Commissioner of Public Works, and Minister of Agriculture and Receiver-General, by any law, statute or ordinance of Upper Canada, Lower Canada or Canada, and not repugnant to this Act, shall be vested in or imposed on any officer to be appointed by the Lieutenant-Governor for the discharge of the same or any of them; and the Commissioner of Agriculture and Public Works shall perform the duties and functions of the office of Minister of Agriculture at the passing of this Act imposed by the law of the Province of Canada, as well as those of the Commissioner of Public Works.

136. Until altered by the Lieutenant-Governor in Council, the Great Seals of Ontario and Quebec respectively shall be the same, or of the same design, as those used in the Provinces of Upper Canada and Lower Canada respectively before their union as the Province of Canada.

137. The words "and from thence to the end of the then next ensuing session of the Legislature," or words to the same effect, used in any temporary Act of the Province of Canada not expired before the union, shall be construed to extend and apply to the next session of the Parliament of Canada if the subject-matter of the Act is within the powers of the same as defined by this Act, or to the next sessions of the Legislatures of Ontario and Quebec respectively if the subject-matter of the Act is within the powers of the same as defined by this Act.

138. From and after the union the use of the words "Upper Canada" instead of "Ontario," or "Lower Canada" instead of "Quebec," in any deed, writ, process, pleading, document, matter or thing, shall not invalidate the same.

139. Any proclamation under the Great Seal of the Province of Canada issued before the union to take effect at a time which is subsequent to the union, whether relating to that Province, or to Upper Canada, or to Lower Canada, and the several matters and things therein proclaimed, shall be and continue of like force and effect as if the union had not been made.

140. Any proclamation which is authorised by any Act of the Legislature of the Province of Canada to be issued under the Great Seal of the Province of Canada, whether relating to that Province, or to Upper Canada, or to Lower Canada, and which is not issued before the union, may be issued by the Lieutenant-Governor of Ontario or of Quebec, as its subject-matter requires under the Great Seal thereof; and from and after the issue of such proclamation the same and the several matters and things therein proclaimed shall be and continue of the like force and effect in Ontario or Quebec as if the union had not been made.

141. The penitentiary of the Province of Canada shall, until the Parliament of Canada otherwise provides, be and continue the penitentiary of Ontario and of Quebec.

142. The division and adjustment of the debts, credits, liabilities, properties and assets of Upper Canada and Lower Canada shall be referred to the arbitrament of three arbitrators, one chosen by the Government of Ontario, one by the Government of Quebec, and one by the Government of Canada; and the selection of the arbitrators shall not be made until the Parliament of Canada and the Legislatures of Ontario and Quebec have met; and the arbitrator chosen by the Government of Canada shall not be a resident either in Ontario or in Quebec.

143. The Governor-General in Council may from time to time order that such and so many of the records, books and documents of the Province of Canada as he thinks fit shall be appropriated and delivered either to Ontario or to Quebec, and the same shall thenceforth be the property of that Province; and any copy thereof or extract therefrom, duly certified by the officer having charge of the original thereof, shall be admitted as evidence.

144. The Lieutenant-Governor of Quebec may from time to time, by proclamation under the Great Seal of the Province, to take effect from a day to be appointed therein, constitute townships in those parts of the Province of Quebec in which townships are not then already constituted, and fix the metes and bounds thereof.

X.—INTERCOLONIAL RAILWAY

145. (*Repealed*).

XI.—ADMISSION OF OTHER COLONIES

146. It shall be lawful for the Queen, by and with the advice of Her Majesty's most Honourable Privy Council, on addresses from the Houses of the Parliament of Canada, and from the Houses of the respective Legislatures of the Colonies or Provinces of Newfoundland, Prince Edward Island,[9] and British

[9] By Imperial Order in Council of June 26, 1873 (*Sate Papers*, Vol. LXVII, page 1300). Prince Edward Island was admitted into the Dominion as from July 1, 1873.

Columbia,[10] to admit those Colonies or Provinces, or any of them, into the union, and on address from the Houses of the Parliament of Canada to admit Rupert's Land[11] and the North-Western Territory,[11] or either of them, into the union, on such terms and conditions in each case as are in the addresses expressed and as the Queen thinks fit to approve, subject to the provisions of this Act; and the provisions of any Order in Council in that behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

147. In case of the admission of Newfoundland and Prince Edward Island, or either of them, each shall be entitled to a representation in the Senate of Canada of 4[12] members, and (notwithstanding anything in this Act) in case of the admission of Newfoundland the normal number of senators shall be 102 and their maximum number shall be 110; but Prince Edward Island when admitted shall be deemed to be comprised in the third of the three divisions into which Canada is, in relation to the constitution of the Senate, divided by this Act, and accordingly, after the admission of Prince Edward Island, whether Newfoundland is admitted or not, the representation of Nova Scotia and New Brunswick in the Senate shall, as vacancies occur, be reduced from 12 to 10 members respectively, and the representation of each of those Provinces shall not be increased at any time beyond 10, except under the provisions of this Act for the appointment of 3 or 6 additional senators under the direction of the Queen.

(Schedules not printed)

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[10] By Imperial Order in Council of May 16, 1871 (*State Papers*, Vol. LXI, page 1344), British Columbia was admitted into the Dominion as from July 20, 1871.

[11] By Imperial Order in Council of June 23, 1870 (*State Papers*, Vol. LX, page 406), Rupert's Land and the North-Western Territory were admitted into the Dominion as from July 15, 1870.

[12] Increased to 6 in the case of Newfoundland by section 1 (1) (vi) of "The British North America Act, 1915."

III. FEDERAL CONSTITUTION
OF
THE SWISS CONFEDERATION (1874)

In the Name of Almighty God:

THE SWISS CONFEDERATION, resolved to consolidate the alliance of the confederated members and to maintain and increase the unity, strength and honour of the Swiss nation, has adopted the following Federal Constitution:—

CHAPTER I.

GENERAL PROVISIONS.

Article 1.—The peoples of the twenty-two sovereign Cantons of Switzerland united in the present alliance, namely: *Zurich, Bern, Lucerne, Uri, Schwyz, Unterwalden* (Upper and Lower), *Glaris, Zug, Freiburg, Solothurn Basel* (City and Country), *Schaffhausen, Appenzell* (the two Rhodes), *St. Gall, Grisons, Aargau, Thurgaw, Ticino, Vaud, Valais, Neuchatel,* and *Geneva* form together the Swiss Confederation.

Article 2.—The object of the Confederation is to ensure the independence of the country against the foreigner, to maintain peace and order within its borders, to protect the liberties and rights of its members, and to promote their common prosperity.

Article 3.—The Cantons are sovereign so far as their sovereignty is not limited by the Federal Constitution, and as such they exercise all rights which are not delegated to the Federal Power.

Article 4.—All Swiss people are equal before the law. In Switzerland there are no subjects nor any privileges of rank, birth, person or family.

Article 5.—The Confederation guarantees to the Cantons their territory their sovereignty within the limits fixed by Article 3, their Constitutions, the liberty and rights of their people, the constitutional rights of the citizens, and the rights and powers conferred by the people on the authorities.

Article 6.—The Cantons are required to demand from the Confederation its guarantee of their Constitutions.

This guarantee must be accorded, provided:

(*a*) that the Constitutions contain nothing contrary to the provisions of the Federal Constitution;

(*b*) that they ensure the exercise of political rights according to republican forms—representative or democratic;

(*c*) that they have been accepted by the people and can be revised when an absolute majority of citizens so demand.

Article 7.—All separate alliances and treaties of a political character between Cantons are forbidden.

The Cantons, however, have the right to make agreements with one another on matters of legislation, administration and justice; but such agreements must be communicated to the Federal authority, which may prohibit their execution if they contain anything prejudicial to the Confederation or the rights of other Cantons. In the absence of such prohibition, the Cantons making the agreement are authorized to require the co-operation of the Federal authorities in their execution.

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[1] Adopted May 29, 1874.

Article 8.—The Confederation has the sole right to declare war and conclude peace, and to make alliances and treaties, particularly customs and commercial treaties, with foreign States.

Article 9.—Exceptionally, the Cantons retain the right to conclude treaties with foreign States in respect of matters of public economy and police and border relations; but such treaties must not contain anything prejudicial to the Confederation or the rights of other Cantons.

Article 10.—Official intercourse between the Cantons and foreign governments or their representatives shall take place through the Federal Council.

But in regard to matters mentioned in the preceding article the Cantons may correspond directly with the subordinate authorities and officers of a foreign State.

Article 11.—Military "capitulations"[2] are prohibited.

Article 12[3].—The members of the federal authorities, federal, civil and military officials, representatives and commissioners as well as the members of the Cantonal Governments and legislatures may accept from a foreign government neither pensions or salaries, nor titles, gifts or decorations. The violation of this prohibition entails the loss of the mandate or of the office.

He who is in possession of such a pension, title or decoration, cannot, by election or appointment, become a member of the federal authority nor a civil or military official of the Confederation, nor a federal representative or commissioner, nor a member of the government or legislature of a Canton, unless he shall have expressly renounced his right to the pension or the title or returned the decoration, before exercising his mandate or entering upon his office.

The wearing of foreign decorations or the use of titles conferred by foreign government are forbidden in the Swiss army.

All officers, non-commissioned officers or soldiers are forbidden from accepting any such distinction.

Article 13.—The Confederation may not maintain a standing army.

No Canton or half-Canton may maintain more than 300 men as a permanent military force (excluding police) without permission of the Federal authority.

Article 14.—The Cantons must abstain, in the event of differences arising between them, from any attack or resort to arms. They must submit to the settlement of such differences in the manner prescribed by the Confederation.

Article 15.—In case of sudden danger from without, the government of the Canton threatened must invoke the assistance of the confederated States and immediately notify the Federal Authority the measures which may subsequently be taken by the latter not being prejudiced thereby. The Cantons so called upon are bound to give their assistance. The cost shall be borne by the Confederation.

Article 16.—In case of internal disorder or of danger being threatened from another Canton, the Government of the Canton threatened must immediately notify the Federal Council, in order that that body may take the necessary measures within the limits of its competence (Article 102, Nos. 3, 10 and 11) or convene the Federal Assembly. In case of urgency the Cantonal Government, while immediately notifying the Federal Council, may call for the assistance of the other Confederated States, which the latter are bound to render.

When the Cantonal Government is not in a position to summon assistance, the competent Federal Authority may intervene on its own initiative, and is bound to do so if the disorders endanger the safety of Switzerland.

When the Federal Authorities intervene, they must ensure the observance of the provisions of Article 5.

The costs shall be borne by the Canton by which assistance was invoked or intervention necessitated, unless the Federal Assembly on consideration of the special circumstances should otherwise decide.

Article 17.—Every Canton must give free passage to troops in the cases mentioned in Articles 15 and 16.

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[2] Agreements for the supply of mercenary troops to foreign countries.

[3] This Article was substituted for the original by referendum on February 8, 1931.

The troops are placed immediately under Federal command.

Article 18.—Every Swiss male is liable for military service.

Soldiers who lose their lives or suffer permanent injury to their health in the Federal service are entitled to assistance from the Confederation for themselves or their families, if in need.

Every soldier shall be supplied, free of charge, with his first outfit of arms, equipment and clothing. Arms remain in the possession of the soldier upon conditions to be determined by Federal legislation.

The Confederation will prescribe uniform regulations as to the tax on exemption from military service.

Article 19.—The Federal army consists of—

(*a*) the Cantonal corps;

(*b*) all Swiss who, not being members of these corps, are nevertheless liable for military service.

The control of the Federal army and of war material provided in accordance with the law is vested in the Confederation.

In case of danger, the Confederation has also the right of exclusive and immediate control over all men not incorporated in the Federal army and of all other military resources of the Cantons.

The Cantons exercise control over the military forces of their territory save in so far as this right is limited by the Constitution or by Federal legislation.

Article 20.—Laws as to the organization of the army are enacted by the Confederation. The execution of military laws within the Cantons is undertaken by the Cantonal authorities within the limits prescribed by Federal legislation and under the supervision of the Confederation.

Military instruction and the arming of troops are under the exclusive control of the Confederation.

The supply and renewal of clothing and equipment are within the competence of the Cantons, but the cost thereof shall be reimbursed to the Cantons in manner to be prescribed by Federal law.

Article 21.—So far as military considerations permit, each corps shall consist of troops from the same Canton.

The composition of such corps, the obligation of maintaining their strength, and the appointment and promotion of their officers rest with the Cantons, subject to general regulations communicated to them by the Confederation.

Article 22.—In return for reasonable compensation, the Confederation has the right to make use of or to acquire drill grounds and buildings used for military purposes, together with all accessories, in the Cantons.

The conditions governing compensation shall be regulated by Federal legislation.

Article 23.—The Confederation may construct at its own expense, or encourage by subsidies the construction of, public works of utility to Switzerland as a whole, or to any considerable part of the country.

For this purpose it may order expropriations on payment of just compensation. Federal legislation will make the necessary provision in this respect.

The Federal Assembly may prohibit public works which endanger the military interests of the Confederation.

Article 23 A[4].—The Confederation maintains the stores of grain necessary to secure the revictualling of the country. It may oblige millers to store grain and to purchase extra supplies of grain in order to facilitate the renewal of the stores.

The Confederation encourages the growing of grain in the country. It promotes the selection and purchase of indigenous choice seeds and grants subsidies to the producer growing grain for his own needs, taking into particular consideration the mountainous regions. It purchases indigenous grain of good quality fit for

[4] This Article was added by referendum on March 3, 1929.

milling at a price which allows its growing. The millers may be obliged to purchase this grain at its market value.

The Confederation assures the maintenance of national mills; it also safeguards the interests of consumers of flour and of bread. Within the limits of its rights, it supervises the trade and prices of grain, bread flour and of bread. The Confederation takes the necessary measures to regulate the importation of bread flour; it may also reserve for itself the exclusive right to import this product. In case of need, the Confederation grants mills facilities, in order to reduce their transportation costs within the country. It takes the necessary measures in order to equalize the prices of flour for the mountainous regions.

A statistical duty shall be levied on all goods transported across the customs frontier. The yield of this duty shall contribute to the expenditure entailed by the revictualling of the country in grain.

Article 24[5].—The Confederation has the right of supreme control of the policing of embankments and forests.

It will assist in the control and embanking of rivers and the reafforestation of the districts in which they rise, and will decree the measures necessary for the maintenance of such works and the preservation of the existing forests.

Article 24 A[6].—The utilisation of water-power is under the supreme control of the Confederation.

Federal legislation will make the necessary provision for safeguarding the public interest and ensuring the rational utilisation of water-power, taking into account, as far as possible, the interests of internal navigation.

Subject to such Federal legislation, the Cantons regulate the utilisation of water-power.

Concessions shall, notwithstanding, be granted by the Confederation in any case where the utilisation of a watercourse under the jurisdiction of more than one Canton is sought for the production of hydraulic power and the Cantons have failed to come to any agreement as to the granting of a concession. The Confederation shall likewise have power to grant concessions, after hearing the views of the Cantons concerned, in respect of watercourses forming the frontier of the country.

Fees and royalties payable in respect of the utilisation of water-power are the property of the Cantons or of those entitled to them under Cantonal law.

Fees and royalties payable in respect of concessions made by the Confederation shall be determined by the Confederation, after consideration of the views of the Cantons concerned and having due regard to their legislation Fees and royalties payable in respect of other concessions shall be determined by the Cantons, subject to the limitations imposed by Federal legislation.

The diversion abroad of energy produced from water-power may not take place without authority from the Confederation.

Upon the coming into force of this Article, all new water-power concessions shall be subject to future Federal legislation.

The Confederation has the right to legislate upon the transmission and distribution of electrical energy.

Article 24 B[7].—Legislation affecting navigation is within the province of the Confederation.

Article 25.—The Confederation may make laws for the regulating of fishing and hunting, particularly with a view to the preservation of forest animals in the mountains and the protection of birds useful to agriculture and sylviculture.

Article 25 A[8].—The bleeding of animals for slaughter which have not been previously stunned is expressly forbidden. This provision applies to all methods of slaughter and to all kinds of animals.

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[5] The first paragraph of this Article is a modification of the original Article 24, and was adopted by referendum on July 11, 1897.

[6] This Article was added by referendum on October 25, 1908.

[7] This Article was added by referendum on May 4, 1919.

[8] This Article was added by referendum on August 20, 1893.

Article 26.—Legislation on the construction and working of railways is within the province of the Confederation.

Article 27.—The Confederation may establish, in addition to the existing Federal Polytechnic, a Federal University and other institutions for higher education, or may subsidise establishments of this kind.

The Cantons provide for primary education, which must be adequate and exclusively under the control of the civil authorities. Primary education is compulsory and, in the public school, free.

Public schools must be open for the attendance of members of all religious faiths without prejudice to them in any way in respect of their conscience or belief.

The Confederation will take any necessary measures against Cantons which fail to fulfil these obligations.

Article 27 A[9].—Subventions shall be granted to the Cantons to aid them in carrying out their obligations in respect of elementary education.

Effect will be given to this provision by legislation.

The organization, direction, and supervision of elementary schools remain within the competence of the cantons, subject to the provisions of Article 27 of the Federal Constitution.

Article 28.—Customs duties are within the province of the Confederation which may impose import and export taxes.

Article 29.—The collection of Federal customs must be regulated in accordance with the following principles:

1. Import taxes.
   (*a*) Materials necessary to the industry and agriculture of the country must be taxed as lightly as possible.
   (*b*) The same principle applies to commodities necessary for the maintenance of life.
   (*c*) Articles of luxury must be subject to the heaviest taxes.

Except where circumstances render it impossible, these principles must be observed in the conclusion of commercial treaties with foreign countries.

2. Export taxes must be as moderate as possible.
3. Legislation on customs will contain suitable provisions for the continuance of commercial and market intercourse across the frontier.

The foregoing provisions do not preclude the Confederation from taking exceptional measures temporarily to meet abnormal circumstances.

Article 30[10].—The yield of customs duties belongs to the Confederation.

The compensation heretofore paid to the cantons for the repurchase of their toll dues, of their road and bridge taxes, of their customs duties and similar revenue, is abolished.

The cantons of Uri, of the Grisons, of Tessin and of the Valais shall receive from January 1st, 1925, exceptionally and by reason of their international Alpine roads, an annual compensation whose amount is fixed as follows:—

Uri	...	...	...	160,000 francs
Grisons	...	...	...	400,000 francs
Tessin	...	...	...	400,000 francs
Valais	...	...	...	100,000 francs

Article 31[11].—The freedom of trade and commerce is guaranteed throughout the Confederation, in so far as it is not limited by the Federal Constitution and laws based on constitutional provisions.

Cantonal regulations concerning the exercise of commercial and industrial occupations may not contain any provisions contravening the principle of freedom of trade and commerce unless permitted by the Federal Constitution. Cantonal monopolies are also excepted.

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[9] This Article was added by referendum on November 23, 1902.
[10] This Article was substituted for the original by referendum on May 15, 1927.

Article 31A.—The Confederation takes the necessary measures within its constitutional authority for the welfare of the people and the economic security of the citizens.

With due regard for the general interest of the Swiss economy as a whole, the Confederation may enact regulations concerning the exercise of trades and industries and may take measures for the development of certain branches or professions. The Confederation is bound (excluding the exceptions contained in paragraph 3 of this Article) to the observance of the principle of freedom of trade and commerce.

If justified in the national interest, the Confederation is authorised to enact regulations in the following matters which may, if necessary, deviate from the principle of freedom of trade and commerce:

(a) Measures for the maintenance of important branches and professions whose existence is jeopardized; as well as measures for the professional furtherance of self-employed persons in these branches or professions.

(b) Measures for the maintenance of a healthy and productive agriculture; as well as measures for the protection of land ownership by farmers.

(c) Measures for the protection of distressed areas.

(d) Measures against economically and socially dangerous effects of cartels and similar groups.

(e) Measures to insure preparedness in time of war.

Measures in accordance with (a) and (b) may be taken only if the branches or professions to be protected have exhausted all ordinary means of self-help.

The federal legislation adopted in accordance with paragraph 3, (a) and (b) must guarantee the development of economic organizations based on mutual assistance.

Article 31B[11].—The cantons are authorized to enact legislation with regard to the requirements for the management of hotels and restaurants. The cantons may limit the number of such enterprises if they exceed the public need and if the existence of the industry is threatened by excessive competition. These regulations must take into account the relative importance of the different types of hostelries for the public welfare.

The Confederation, within its own legislative powers, may furthermore authorize the cantons to issue regulations in fields which do not require general regulation by the Confederation itself and which actually do not fall under the jurisdiction of the cantons.

Article 31C[11].—The Confederation is authorized to regulate banks.

These regulations must take into account the special function and position of the cantonal banks.

Article 31D[11].—The Confederation, in connection with the cantons and private business, takes measures to prevent economic crises and, if necessary, to relieve existing unemployment. The Confederation may act with regard to the creation of employment opportunities.

Article 32[11].—The measures provided for in Article 31A, 31B, paragraph 2, 31C and 31D may be introduced only in the form of federal laws or federal decrees subject to the referendum. For cases of an urgent character, in times of economic stress, Article 89, paragraph 3, may be invoked.

The cantons must be consulted before the enactment of laws providing for the execution of these measures. As a rule, the execution of the federal regulations must be entrusted to the cantons.

The competent business organizations should also be consulted before the enactment of the laws of execution. They may be asked to cooperate in the execution of these measures.

Article 32A[12].—The Confederation shall have the right to enact legislative

[11] Amended October 1, 1947.

[12] This Article was added by referendum on October 25, 1885. It was amended by referendum on April 6, 1930.

provisions on the manufacture, import, rectification, sale and taxation of distilled beverages.

These provisions shall tend to reduce the consumption and consequently the importation and production of spirits. They shall encourage the production of table fruit and the use of indigenous distillable substances for purposes of food and fodder. The Confederation shall reduce the number of stills by private purchase.

Concessions for the industrial production of distilled beverages are granted to co-operative societies and to other private enterprises. The concessions granted shall authorize the use of the waste and residues of fruit production, of viticulture, of the production of sugar beet and the excess of fruit and potato harvests, in so far as these raw materials cannot rationally be employed elsewhere than in distilleries.

The non-industrial production of spirits drawn from fruit waste, fruit cider, wine, skins of grapes and analogous substances, is authorized in the already existing domestic distilleries, in the itinerant distilleries in so far as these substances result exclusively from the indigenous harvest of the producer or have been gathered in a wild state in the country. The spirits thus obtained shall be tax free in so far as they are used in the household or are necessary for the farm of the producer. Domestic distilleries still existing at the end of fifteen years after the adoption of the present article shall, in order to continue their production, seek for a concession which shall be granted them without expense under the conditions to be fixed by law.

The special products obtained by the distillation of stone fruit, wine, skins of grapes, wine drugs, gentian roots and other similar substances, are subject to a tax. However the producer shall be allowed to obtain a fair price for these raw materials when produced in the country.

Except for the quantities necessary to the producer, which are tax free, and for special products, the spirits manufactured in the country are delivered to the Confederation, which shall purchase them at a fair price.

Exported products or products transported in transit or methylated are tax free.

The yield of taxes on the sales and the retailing of spirits, within the limits of the cantons, belongs to the cantons. The licenses for intercantonal and international trade are delivered by the Confederation; the receipts therefrom are distributed among the cantons proportionally to their population of ordinary residence.

Half the net receipts which the Confederation draws from the taxation of distilled beverages are distributed among the cantons proportionally to their population of ordinary residence; each canton is obliged to employ at least 10 per cent. of its share to combat alcoholism in its causes and in its effects. The other half of the receipts belongs to the Confederation; it shall be earmarked for old age and survival insurance and, until the introduction of this insurance, paid in to the funds created therefor.

Article 32 B[13].—The manufacture, importation, transport and sale, or keeping for sale, of the liquor called absinth are prohibited throughout the Confederation. This prohibition extends to all beverages, by whatever name called, which are imitations of absinth. The through transport of absinth and the use of absinth in pharmacy are excepted from this prohibition.

The foregoing prohibition will come into operation two years after its adoption. Federal legislation will make the necessary provision for giving effect to this prohibition.

The Confederation may by law impose the same prohibition on all other beverages containing absinth which may be deemed dangerous to the public welfare.

Article 32 C[14].—The manufacture, importation, transport, sale and holding of

[13] This Article was added by referendum on July 5, 1908.
[14] This Article was added by referendum on April 6, 1930.

the liquor called absinth shall be forbidden throughout the Confederation. This prohibition extends to all liquors which, under any name, should constitute an imitation of absinth. The right to transport in transit and the use of absinth for pharmaceutical purposes remain reserved.

The above prohibition shall come into force two years after its adoption. The provisions made necessary by the prohibition shall be enacted by federal legislation.

The Confederation has the right to decree the same prohibition by legislative means for all other beverages containing absinth which should constitute a public danger.

Article 33.—The Cantons may require evidence of capacity from persons desiring to practise the liberal professions.

Federal legislation will make provisions that such persons may be able to obtain certificates of qualification valid throughout the Confederation.

Article 34.—The Confederation may make uniform regulations concerning child labour in factories, the hours of work of adults in factories and the protection of workers in unhealthy or dangerous trades.

The operations of emigration agencies and insurance undertakings not established by the State are subject to Federal supervision and legislation.

Article 34 A[15].—The Confederation will introduce legislation to provide for sickness and accident insurance, regard being had to existing institutions.

Such insurance may be made compulsory on all or on specified categories of citizens.

Article 34 B[16].—The Confederation is authorized to enact regulations with regard to the following matters:

(a) Protection of employees.

(b) Relations between employers and employees; in particular, mutual regulation of professional and business matters of common concern.

(c) General compulsory effect of collective contracts and of other common measures of employers' and employees' organizations intended to insure labour peace.

(d) Fair compensation for loss of salary during military service.

(e) Employment placement.

(f) Unemployment compensation and relief.

(g) Professional training in industry, trade, commerce, agriculture, and domestic work.

The declaration of a general compulsory effect according to (c) may apply only to subject matters concerning the conditions of employment and is permissible only if minority interests and regional differences are given due consideration and if there is no infringement on the principles of equality before the law and freedom of association.

Unemployment insurance will be carried out by public and private funds made up of bilateral or unilateral contributions. The establishment of public unemployment insurance funds and of a compulsory unemployment insurance system is left to the decision of the individual canton.

The provisions of Article 32 will be applied in this sense.

Article 34 C.—The Confederation shall, by means of legislation, institute a system of old age and surviving dependents' insurance; it may later introduce invalidity insurance.

It may declare such insurance to be obligatory in general or as regards certain categories of citizens.

The insurance plan shall be carried into effect with the co-operation of the cantons; application may be made to the public or private insurance societies for their collaboration.

The first two branches of insurance shall be introduced simultaneously.

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[15] This Article was added by referendum on October 26, 1890.

[16] Amended October 1, 1947.

The financial contributions of the Confederation and the cantons shall not exceed, altogether, one-half of the total sum necessary for the insurance.

From January first, 1926, the Confederation shall set apart for old age and surviving dependents' insurance, the total yield of the tobacco tax.

The Confederation's share of the net receipts accruing from the taxation of spirits shall be set apart for old age and surving dependents' insurance.

Article 34 D.—The Confederation, in the exercise of the powers conferred on it and within the limits of the Constitution, is concerned with the needs of the family.

The Confederation is authorized to legislate regarding family compensation funds. It may declare participation therein to be obligatory in general or for certain groups of the population. It is concerned with the existing funds, supports the efforts of cantons and professional associations for the establishment of new funds, and may create a central compensation fund. It may make its financial advances contingent upon equitable participation of the cantons.

The Confederation is authorized, in the matter of housing and internal colonization to support the efforts in favour of the family. A federal law shall indicate the conditions which the Confederation may attach to its financial participation, subject to the cantonal police provisions with respect to buildings.

The Confederation shall, by means of legislation, establish maternity insurance. It may declare participation therein to be obligatory in general or for certain groups of the population and may require contribution to be made even by persons not qualified to benefit by insurance payments. It may make its financial advances contingent upon equitable participation of the cantons.

The laws issued by virtue of the present article shall be executed with the co-operation of the cantons; the collaboration of associations of public or private law may be requested.

Article 35[18].—The opening and running of gaming houses is forbidden.

The cantonal governments may, under certain conditions fixed by public interest, authorize society games played in kursaals until the spring of 1925, in so far as the competent authority deems such games necessary for the maintenance and development of the tourist traffic and in so far as their organization is entrusted to an enterprise which for this purpose maintains a kursaal. The cantons can also prohibit such games.

An ordinance of the Federal Council shall determine the conditions imposed by public interest. The stake shall not exceed two francs.

The cantonal authorizations shall be subject to the approval of the Federal Council.

The fourth of the gross receipts of the games shall be paid over to the Confederation which shall earmark it, without prejudice to its own payments, for the victims of natural devastations, as well as for works of public utility.

The Confederation shall also take the necessary measures concerning lotteries.

Article 36.—Throughout Switzerland posts and telegraphs are within the province of the Confederation.

Revenues from posts and telegraphs belong to the Federal Treasury.

Postal and telegraphic charges must be fixed on the same principle and as equitably as possible in every part of Switzerland.

The inviolable secrecy of letters and telegrams is guaranteed.

Article 37.—The Confederation exercises supreme control over all roads and bridges in the maintenance of which it is concerned.

The sums due to the Cantons specified in Article 30 on account of their international Alpine highways may be withheld by the Federal authorities if these highways are not properly maintained.

Article 37 A[19].—The Confederation may make regulation concerning automobiles and cycles.

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[18] This Article was amended by referendum on December 2, 1921.

[19] This Article was added by referendum on May 22, 1922.

The Cantons retain the right to restrict or prohibit automobile and cycle traffic, but the Confederation may nevertheless declare open or partially open to traffic highways necessary for through traffic. The use of highways upon the business of the Confederation may not be restricted.

Article 37 B[20].—Legislation concerning aerial navigation is within the province of the Confederation.

Article 38.—The Confederation exercises exclusive rights in regard to coinage. It has the sole right of coining money.

It determines the monetary system, and may, if necessary, regulate the rate of exchange of foreign moneys.

Article 39[21].—The right of issuing bank-notes and other fiduciary money is vested exclusively in the Confederation.

The Confederation may exercise its monopoly of note issue through a State Bank placed under a special administration, or may concede its monopoly, subject to the right of redemption, to a central joint stock bank, which shall be administered with the assistance and under the control of the Confederation.

The principal function of the bank holding the monopoly of bank notes is to regulate the money market in Switzerland and to facilitate payments and to practice a credit and monetary policy serving the general interests of the country.

At least two-thirds of the net profits of the Bank, after payment of interest or reasonable dividend on the endowment or share capital, and after allocations to the reserve funds, must be distributed among the Cantons.

The Bank and its branches shall be exempt from all Cantonal taxation.

The Confederation may not suspend the obligation to reimburse bank notes and any other fiduciary money nor decree their compulsory acceptance except in time of war or of disturbance of the monetary situation.

The bank notes issued must be covered by gold and by short term credits.

Federal legislation shall make provision as to the carrying into effect of this Article.

Article 40.—The system of weights and measures is determined by the Confederation.

The laws relating thereto are administered by the Cantons under Federal supervision.

Article 41.—The Confederation has the monopoly of the manufacture and sale of gunpowder throughout Switzerland.

Blasting materials not usable for firearms are not included in this monopoly.

Article 41 A[22].—The Confederation may impose stamp duties upon title deeds, receipts for insurance premiums, bills of exchange and similar instruments, documents in use in transport and other documents concerning commercial operations; but such duties may not be imposed on documents concerning landed property and mortgages.

The Cantons may not subject to any stamp duty or registration duty documents which are liable to Federal stamp duty or which have been exempted therefrom.

One-fifth of the net product of the stamp duties shall be payable to the Cantons.

The carrying into effect of this Article will be provided for by legislation.

Article 41 B[23].—The Confederation is authorized to levy taxes on law and manufactured tobacco.

Article 42*.—The expenses of the Confederation are met by—

(*a*) the revenue from Federal property;

(*b*) the revenue from Federal customs collected on the Swiss frontiers;

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[20] This Article was added by referendum on May 22, 1921.

[21] As amended 1951.

[22] Article 41 (a), together with Clause (g) of Article 42, was added by referendum on May 13, 1917.

[23] This article was added by referendum on December 6, 1925.

(*c*) the revenues from posts and telegraphs;
(*d*) the revenue from the gunpowder monopoly;
(*e*) half the gross product of the military exemption taxes collected by the Cantons;
(*f*) contributions by the Cantons determined by Federal legislation having special regard to their wealth and taxable resources;
(*g*) the revenue from stamp duties.

Article 43.—Every citizen of a Canton is a Swiss citizen.

As such he is entitled, after having duly proved his qualification as a voter, to take part at his place of domicile in all Federal elections and pollings.

No person may exercise political rights in more than one Canton.

A Swiss citizen by settlement enjoys at his place of domicile all the rights of a citizen of the Canton together with the rights of a citizen of the Commune. Participation in the property of communes of citizens and corporations, and the right to vote in matters exclusively connected therewith, are excluded from these rights, unless otherwise provided by Cantonal legislation.

In Cantonal and communal matters a Swiss citizen by settlement acquires the rights of an elector after settlement for a period of three months.

Cantonal laws concerning settlement and electoral rights in communal affairs possessed by citizens by settlement shall be submitted to the Federal Council for approval.

Article 44[24].—No Swiss citizen shall be expelled from the territory of the Confederation or from his canton of origin.

The rules applicable to the acquisition and loss of the Swiss nationality shall be fixed by federal legislation.

Federal legislation may decide that the child born of foreign parents is a Swiss citizen on his birth, when the mother was of Swiss origin and when the parents had their ordinary residence in Switzerland at the time of the birth of the child. The child acquires the right of citizenship in the commune of origin of his mother.

The principles regulating re-integration in the right of citizenship shall be laid down by federal legislation.

The persons having acquired Swiss citizenship by reason of the present provisions shall enjoy the same rights as the other citizens; however, they shall not participate in the purely communal (bourgeoisiaux) and corporative estates, unless the cantonal legislation otherwise decides. The Confederation accepts the burden of at least half the poor relief that persons having become Swiss by their birth under the above conditions may throw upon the Cantons and the Communes until the end of their eighteenth year. The same is the case of citizens reintegrated in the right of citizenship during the ten years following their re-integration.

The federal legislation shall determine the cases in which the Confederation shall participate in the expenses of the Cantons and the Communes for the relief of naturalized stateless individuals.

Article 45.—Every Swiss citizen has the right to settle in any part of Switzerland, subject to the production of a certificate of origin or similar document. The right of settlement may, by way of exception, be *refused* to or *withdrawn* from persons who have been deprived of their civic rights as a result of a penal conviction.

The right of settlement may also be withdrawn from persons who have been repeatedly sentenced for grave misdemeanours, and from persons who become a permanent burden upon public charity, and whose Commune or Canton of origin refuses to provide adequate assitance for them after having been officially requested to provide it.

In Cantons in which domiciliary relief is provided permission for settlement may be made conditional, in the case of citizens of the Canton, upon the person being capable of work and not having been a permanent charge upon public charity in their former domicile in the Canton of origin.

[24] This article was amended by referendum on May 20, 1928.

Every expulsion on account of poverty must be confirmed by the government of the Canton of domicile and notified in advance to the Canton of origin.

The Canton in which a Swiss citizen settles may not require from him any security or impose any special charge upon him in respect of such settlement. Similarly, Communes may not impose on Swiss citizens domiciled within their area any charges other than those imposed upon their own citizens.

The maximum chancery fee chargeable in respect of permits for settlement shall be determined by Federal law.

Article 46.—Persons settled in Switzerland shall normally be subject in all matters of civil law to the jurisdiction and legislation of their place of domicile.

Federal legislation will make the necessary provisions for the application of this principle and for preventing double taxation of a citizen.

Article 47.—Federal legislation shall define the difference between settlement and temporary residence, and at the same time prescribe the regulations governing the political and civil rights of Swiss citizens during temporary residence.

Article 48.—A Federal law shall make provision as to the expenses of the illness and burial of poor citizens of one Canton who fall ill or die in another Canton.

Article 49.—Liberty of conscience and creed is inviolable.

No person may be compelled to become a member of any religious association, submit to any religious instruction, perform any act of religion, or incur any penalties, of any kind whatsoever, by reason of his religious opinions.

Persons exercising the authority of parent or guardian are entitled, in conformity with the foregoing principles, to determine the religious education of children up to the age of sixteen years.

The exercise of civil or political rights may not be limited by any ecclesiastical or religious requirements or conditions of any kind whatsoever.

No person may refuse, on the ground of religious opinion, to fulfil any obligation of citizenship.

No person may be compelled to pay taxes the proceeds of which are specifically appropriated in payment of the purely religious expenses of any religious community of which he is not a member. The application of this principle will be determined by Federal legislation.

Article 50.—The free exercise of religion is guaranteed within limits compatible with public order and morality.

The Cantons and the Confederation may take measures necessary to maintain public order and peace between the members of different religious communities and to prevent encroachments by ecclesiastical authorities upon the rights of citizens and of the State.

Legal proceedings, under public or private law, arising out of the formation of religious communities, or the division of existing religious communities, may be brought by way of petition before the competent Federal authorities.

No bishopric may be created within Swiss territory without the approval of the Confederation.

Article 51.—The Order of Jesuits, and societies affiliated with it, may not be admitted into any part of Switzerland, and all activities in church and school are forbidden to their members.

This prohibition may be extended by Federal decree to other religious orders whose activity is inimical to the State or disturbs the peace between different religions

Article 52.—The founding of new religious houses or religious orders and the re-establishment of those which have been suppressed, are forbidden.

Article 53.—Civil status and registration in connection therewith are subject to the civil authorities. Federal legislation will make the necessary provision for the application of this Article.

The control of burial-places is subject to the civil authorities, which must provide that every deceased person may receive decent burial.

Article 54.—The right to marry is under the protection of the Confederation.

No impediment to marriage may be based upon grounds of religious belief, the poverty of either party, their conduct, or any other considerations of a police nature.

Marriages concluded in any Canton or abroad in accordance with the law there prevailing shall be recognized as valid throughout the Confederation.

A wife acquires on marriage the citiizenship of the Commune of her husband.

Children born before the marriage are legitimised by the subsequent marriage of their parents.

No marriage fee or similar impost may be levied on either husband or wife.

Article 55[25].—Liberty of the press is guaranteed, but the Cantons may by legislation take measures necessary for the prevention of abuses. Such laws must be submitted to the Federal Council for approval. The Confederation may also prescribe penalties in order to suppress abuses of the liberty of the press directed against the Confederation or Federal authorities.

Article 56.—Citizens have the right to form associations provided that the objects and methods of such associations are not unlawful or dangerous to the State. Cantonal legislation will make the necessary provision for the prevention of abuses.

Article 57.—The right of petition is guaranteed.

Article 58.—No person may be withdrawn from his proper Judge. Accordingly, extraordinary tribunals may not be established.

Ecclesiastical jurisdiction is abolished.

Article 59.—Suits for personal claims against a solvent debtor domiciled in Switzerland must be brought before a Judge of his place of domicile; and the property of such a person may not be seized or sequestrated outside the Canton in which he is domiciled in satisfaction of personal claims.

These provisions are, in respect of foreigners, without prejudice to the provisions of international treaties.

Imprisonment for debt is abolished.

Article 60.—Every Canton is bound to accord to citizens of the other Confederated States the same treatment as to its own citizens in regard to legislation and judicial proceedings.

Article 61.—Final civil judgments delivered in any Canton may be executed throughout Switzerland.

Article 62.—Internal taxes on property leaving one Canton for another ("la traite foraine") are abolished throughout Switzerland, together with all rights of first purchase ("le droit de retrait") by citizens of one canton as against those of another Canton.

Article 63.—Taxes on the transfer of property to foreign countries are abolished, subject to reciprocity.

Article 64[1].—The Confederation has power to legislate in regard to—

civil capacity;

all legal questions relating to commerce and transactions affecting movable property (law of obligations, including commercial law and the law of exchange);

literary and artistic copyright;

the protection of industrial inventions, including designs and models; and suits for debt and bankruptcy.

The Confederation has power also to legislate upon other matters of civil law.

The organization of the judiciary, legal procedure and the administration of justice remain vested in the Cantons to the same extent as hitherto.

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[25] See also Article 64.

[1] This Article was amended as to the protection of inventions by referendum on July 10, 1887. It was again amended to its present form by referendum on March 19, 1905. The last two pagagraphs of this Article were added by referendum on November 13, 1898.

Article 64 A[2].—The Confederation has power to legislate in regard to the penal law.

The organization of the judiciary, legal procedure and the administration of justice remain vested in the Cantons to the same extent as hitherto.

The Confederation may grant subventions to the Cantons for the construction of penitentiaries, workhouses and houses of correction and for the carrying out of reforms in the penal system. It may likewise give assistance to institutions for the care of deserted children.

Article 65[3].—Sentence of death may not be pronounced for any political offence.

Corporal punishment is forbidden.

Article 66.—Federal legislation will prescribe the limits within which a Swiss citizen may be deprived of his political rights.

Article 67.—Extradition from one Canton to another will be dealt with by Federal legislation, but extradition may not be made obligatory for political or press offences.

Article 68.—The measures to be taken for dealing with persons without nationality (Heimatlosen), and for preventing the occurrence of such cases in future, will be prescribed by Federal legislation.

Article 69[4]. The Confederation may take legislative measures to deal with infectious, epidemic and exceptionally dangerous diseases of men and animals.

Article 69A[5].—The Confederation has the right to legislate upon trade in (*a*) foodstuffs, and (*b*) other household commodities and articles of general use, in so far as they may be prejudicial to health or life.

Such laws will be executed by the Cantons under the supervision of and with financial assistance from the Confederation.

The Confederation controls importation over the national frontier.

Article 69 B[6].—The Confederation has the right to legislate on foreigners entering and leaving the country and on their sojourn and establishment within it.

The cantons shall, in accordance with federal law, decide on the sojourn and establishment of foreigners. However, the Confederation has the right to decide in final appeal:

(*a*) on cantonal authorization of prolonged sojourn and establishment as well as on favours granted in this connection,

(*b*) on the violation of treaties of establishment,

(*c*) on cantonal expulsions when they have repercussions on the territory of the Confederation,

(*d*) on the refusal of the right of asylum.

Article 70.—The Confederation may expel from its territory foreigners who compromise the internal or external security of Switzerland.

CHAPTER II

THE FEDERAL AUTHORITIES

I.—THE FEDERAL ASSEMBLY

Article 71.—Subject to the rights reserved to the people and to the Cantons (Articles 89 and 121[7]), the supreme power of the Confederation is exercised by the Federal Assembly, composed of two divisions or Councils, *viz*:—

A. The National Council.

B. The Council of States.

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[2] This Article was added by referendum on November 13, 1898.

[3] This Article was amended, as to the death penalty, by referendum on May 18, 1879.

[4] The Article was amended by referendum on May 4, 1913.

[5] This Article was added by referendum on July 1, 1897.

[6] This Article was added by referendum on October 25, 1925.

[7] Now Art. 123.

A.—THE NATIONAL COUNCIL

Article 72[8].—The National Council is composed of deputies elected by the Swiss people in the proportion of one member to each 24,000 of the total population. Fractions greater than 12,000 are reckoned as 24,000.

Each Canton, and in the divided Cantons, each half-Canton, elects at least one deputy.

Article 73[9].—Elections to the National Council are direct, and are conducted on the principle of proportional representation. Each Canton or half-Canton forms an electoral constituency. Federal legislation shall make the necessary detailed provision to give effect to this principle.

Article 74.—Every Swiss person who has reached the age of twenty years, and who is not excluded from the rights of active citizenship by the laws of the Canton in which he is domiciled, has the right to take part in elections and pollings.

Article 75.—Every lay Swiss citizen entitled to vote is eligible for membership of the National Council.

Article 76[10].—The National Council is elected for a period of four years, and is completely renewed at each election.

Article 77.—Deputies to the Council of States, members of the Federal Council, and officers appointed by that Council, cannot be at the same time members of the National Council.

Article 78.—The National Council selects a Chairman and Vice-Chairman from amongst its members for each ordinary and extraordinary session. A member who has been Chairman during one ordinary session is not eligible, in the next ordinary session, either as Chairman or as Vice-Chairman. The same member cannot be Vice-Chairman during two consecutive ordinary sessions.

In case of an equality of votes, the Chairman has a casting vote; in elections, he votes in the same way as other members.

Article 79.—The members of the National Council receive an allowance from Federal Funds.

B.—THE COUNCIL OF STATES

Article 80.—The Council of States is composed of forty-four deputies from the Cantons. Each Canton appoints two deputies; in divided Cantons each half-Canton elects one.

Article 81.—Members of the National Council and those of the Federal Council may not be deputies to the Council of States.

Article 82.—The Council of States selects a Chairman and Vice-Chairman from among its members for each ordinary and extraordinary session.

Neither the Chairman nor the Vice-Chairman may be elected from among the deputies of the Canton from whose representatives the Chairman was chosen for the ordinary session immediately preceding.

Deputies from the same Canton cannot occupy the office of Vice-Chairman during two consecutive ordinary sessions.

In case of an equality of votes, the Chairman has a casting vote; in elections, he votes in the same way as other members.

Article 83.—The deputies to the Council of States receive an allowance from the Cantons.

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[8] This Article was amended by referendum on March 15, 1931, as amended in 1950.

[9] This Article was amended, to provide for election by Proportional Representation, by referendum on October 13, 1918.

Certain temporary provisions in connection with this Article, as to the holding of elections for the National Council and for the Federal Council, in 1919, were adopted by referendum on August 10, 1919. These are not reproduced here.

[10] This Article was amended by referendum on March 15, 1931.

C.—POWERS OF THE FEDERAL ASSEMBLY

Article 84.—The National Council and the Council of States deliberate on all matters which this Constitution places within the competence of the Confederation, and which are not assigned to any other Federal authority.

Article 85.—The following matters in particular are within the competence of the two Councils:—

1. Laws dealing with the organisation and mode of election of the Federal authorities.
2. Laws and decrees dealing with matters which the Constitution assigns to the Federal authorities.
3. Salaries and allowances of members of the Federal Departments and of the Federal Chancellery; the establishment of permanent Federal offices, and the determination of salaries in connection therewith.
4. The election of the Federal Council, the Federal Tribunal, the Chancellor, and the Commander-in-Chief of the Federal Army. The right of election or confirmation in respect of other offices may be vested in the Federal Assembly by Federal legislation.
5. Alliances and Treaties with foreign States, confirmation of Treaties made by the Cantons between themselves or with foreign States; provided always that such Cantonal Treaties may be submitted to the Federal Assembly only on appeal by the Federal Council or another Canton.
6. Measures dealing with the external safety and the preservation of the independence and of the neutrality of Switzerland; the declaration of war and the conclusion of peace.
7. Guarantee of the Constitutions and territorial integrity of the Cantons; intervention following upon this guarantee; the internal safety of Switzerland; the maintenance of peace and good order; amnesties and pardons.
8. Measures necessary to ensure the due observance of the Federal Constitution, the guarantee of Cantonal Constitutions, and the fulfilment of Federal obligations.
9. The control of the Federal army.
10. The enactment of the annual budget, the approval of State accounts and decrees authorising loans.
11. General supervision of Federal administration and the Federal Courts.
12. Appeals against decisions of the Federal Council relating to administrative disputes.
13. Conflicts of jurisdiction between the Federal authorities.
14. Revision of the Federal Constitution.

Article 86.—Both Councils meet once a year in ordinary session on a day fixed by Standing Orders.

Extraordinary meetings are summoned by the Federal Council, or on the request of one-quarter of the members, or of five Cantons.

Article 87.—The attendance of an absolute majority of the total number of its members is necessary for the valid transaction of business by either Council.

Article 88.—In both the National Council and the Council of States questions are decided by an absolute majority of those voting.

Article 89.—Federal laws, decrees and ordinances can be made only by agreement between the two Councils.

Federal laws are submitted for acceptance or rejection by the people if a demand be made by 30,000 active citizens or by eight Cantons. Federal decrees which are of general effect and are not urgent are likewise submitted on demand.

International treaties concluded for a period of indeterminate duration or for more than fifteen years, shall likewise be submitted for acceptance or rejection by the people if a demand to this effect be made by thirty thousand active citizens or by eight cantons.

Article 89 B[11].—Federal decrees of General import whose entry into force permits of no delay can be put into effect immediately by a decision of the

majority of all the members of each of the two councils; the length of their application must be limited.

When popular voting is demanded by thirty thousand active citizens or by eight cantons, the urgent federal decrees become invalid one year following their adoption by the Federal Assembly, unless they have been approved by the people within the period; in such a case they may be renewed.

Urgent federal decrees which derogate from the constitution must be ratified by the people and the cantons within the year following their adoption by the Federal Assembly; failing this, they become invalid upon the expiration of this period and cannot be renewed.

Article 90.—Federal legislation shall determine the forms and suspensory intervals to be observed in popular votings.

Article 91.—Members of both Councils vote without instructions.

Article 92.—The two Councils meet separately. Nevertheless, for the purpose of the elections mentioned in Article 85, Section 4, of exercising the right of pardon, or of pronouncing on conflicts of jurisdiction (Article 85, Section 13), the two Councils meet in joint session under the presidency of the Chairman of the National Council, decisions being reached by a majority of all the members of the two Councils voting.

Article 93.—Each of the two Councils and each of their members has the right of initiating laws, decrees, and amendments of the Constitution.

The Cantons can exercise the same right by correspondence.

Article 94.—Meeting of the Council shall normally be public.

II.—THE FEDERAL COUNCIL

Article 95.—The supreme directing and executive power of the Confederation is exercised by a Federal Council composed of seven members.

Article 96[12].—Members of the Federal Council are appointed for four years by the two Councils in joint session, and are chosen from among all Swiss citizens eligible to the National Council. Not more than one person from each Canton may be chosen for the Federal Council.

The Federal Council is completely renewed after every general election of the National Council.

Vacancies arising within the normal period of four years are filled at the next meeting of the Assembly for the remainder of the period of office.

Article 97.—The members of the Federal Council may not, during their term of office, occupy any other position, whether in the service of the Confederation or of a Canton, or engage in any other calling or profession.

Article 98.—The President of the Confederation presides over the Federal Council. A Vice-President of the Council shall also be appointed.

The President of the Confederation and Vice-President of the Federal Council are nominated by the Assembly for one year from amongst members of the Federal Council.

An outgoing President cannot be elected President or Vice-President for the following year.

The same member cannot act as Vice-President for two consecutive years.

Article 99.—The President and other members of the Federal Council receive an annual salary paid from Federal funds.

Article 100.—At least four members of the Federal Council must be sent for the valid transaction of business.

Article 101.—Members of the Council have the right to speak, but not to vote, in both division of the Assembly, as well as the right of proposing motions on subjects under discussion.

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[11] Inserted by amendment of 1949.

[12] This Article was amended by referendum on March 15, 1931.

Article 102.—The powers and duties of the Federal Council, within the limits of the Constitution, are more particularly the following:—

1. It directs all Federal business in accordance with the laws and decrees of the Confederation.

2. It ensures the observance of the Constitution and the laws and decrees of the Confederation and of Federal concordats. It takes the necessary measures to this end, upon its own initiative or upon complaint made, in such cases as are not required to be dealt with by the Federal Tribunal in accordance with Article 113.

3. It enforces the guarantee of the Cantonal Constitutions.

4. It drafts laws and decrees for presentation to the Federal Assembly and reports upon proposals submitted by the Councils or by the Cantons.

5. It provides for the execution of the laws and decrees of the Confederation, of the judgments of the Federal Tribunal, and of agreements and arbitration awards upon disputes between Cantons.

6. It makes such appointments as are not entrusted to the Federal Assembly, Federal Tribunal, or other authority.

7. It examines treaties made between the Cantons with one another of with foreign countries, and gives its approval thereto if it think fit (Article 85 Section 5).

8. It watches over the external interests of the Confederation, particularly in regard to the observance of international agreements, and has general charge of foreign affairs.

9. It ensures the external safety of Switzerland and the maintenance of its independence and neutrality.

10. It ensures the internal safety of Switzerland and the maintenance of peace and order.

11. In case of urgency arising when the Federal Assembly is not in session, the Federal Council has authority to call out troops and employ them as it may think necessary, provided that it must convene the Councils immediately if the number of troops called out exceeds two thousand or if they remain mobilized for more than three weeks.

12. It has charge of the Federal military forces and of all branches of the administration thereof which are vested in the Confederation.

13. It examines the laws and ordinances of the Cantons which are required to be submitted to it and supervises the branches of Cantonal administration which are placed under its control.

14. It administers the finances of the Confederation, prepares the budget and submits accounts of receipts and expenditure.

15. It supervises the conduct of business by all officials and employees of the Federal administration.

16. It gives an account of its work to the Federal Assembly in each ordinary session, presents to it a report upon the internal condition and foreign relations of the Confederation, and recommends for consideration such measures as it thinks useful for promoting the general welfare.

It makes special reports whenever the Federal Assembly or either division thereof so demands.

Article 103[13].—The business of the Federal Council is distributed among its members by departments. All decisions emanate from the Federal Council as a single authority.

Federal legislation may authorise departments, or services in connection therewith, themselves to control certain affairs, subject to a right of appeal.

The cases in which such appeal may be made to a Federal Administrative Court shall be determined by Federal ligislation.

Article 104.—The Federal Council and its departments are authorised to call in experts for special purposes.

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[13] This Article was amended by referendum on October 25, 1914.

III.—THE FEDERAL CHANCERY

Article 105[14].—The Federal Chancellery, under the Chancellor of the Confederation, acts as the Secretariat of the Federal Assembly and the Federal Council.

The Chancellor is elected for four years by the Federal Assembly and holds office concurrently with it.

The Chancellery is under the special supervision of the Federal Council.

The organization of the Chancellery is determined by Federal legislation.

IV.—THE FEDERAL TRIBUNAL

Article 106.—A Federal Tribunal is established for the administration of justice in Federal matters.

In penal cases trial is by jury.

Article 107.—Judges of the Federal Tribunal and their substitutes are appointed by the Federal Assembly, who shall have regard to the representation of the three national languages. The organisation of the Court, its divisions, number of Judges, and substitutes, their term of office and emoluments, are determined by law.

Article 108.—Any citizen eligible for the National Council may be appointed to the Federal Tribunal, but members of the Federal Council or of the Federal Assembly, or officials appointed by them, cannot simultaneously be members of the Federal Tribunal. Judges of this Court may not, during their term of office, occupy any other position, either in the service of the Confederation or in that of a Canton, nor follow any other calling or profession.

Article 109.—The organization of the Secretariat of the Tribunal and the appointment of the staff thereof are in the hands of the Federal Tribunals.

Article 110.—The judicial power of the Federal Tribunal extends to civil cases—

1. between the Confederation and the Cantons;
2. between the Confederation of the one part, and corporations or individuals of the other part, when the latter are plaintiffs and the matter in dispute reaches the degree of importance to be prescribed by Federal legislation;
3. between Cantons;
4. between Cantons of the one part, and corporations or individuals of the other part, where either party so demands and the matter in dispute reaches the degree of importance to be prescribed by Federal legislation.

The Federal Tribunal also has jurisdiction in regard to loss of nationality ("Heimatlosat") and disputes between Cantons concerning the right of citizenship of a commune.

Article 111.—The Federal Court is bound to judge other cases when the parties lodge security and the matter in dispute is of the degree of importance to be prescribed by Federal legislation.

Article 112.—The Federal Tribunal, with the assistance of a jury to try the facts, has penal jurisdiction as to—

1. cases of high treason against the Confederation and of revolt and violence against the Federal authorities;
2. crimes and offences against the law of Nations;
3. crimes and political offences which are the cause of, or are consequent upon, disorders necessitating the intervention of the Federal army;
4. charges against officials appointed by a Federal authority when brought before the Tribunal by that authority.

[14] This Article was amended by referendum on March 15, 1931.

Article 113.—The Federal Tribunal also has jurisdiction in regard to—

1. conflicts of jurisdiction between Federal authorities of the one part and Cantonal authorities of the other part;
2. disputes between Cantons in matters of public law;
3. complaints of violation of the constitutional rights of citizens and complaints by individuals of violation of concordats and treaties.

Administrative disputes are excluded from its jurisdiction, subject to the provisions of Federal legislation.

In all the cases above mentioned, the Federal Tribunal shall administer the laws passed by the Federal Assembly, and such decree of that Assembly as are of general application. It shall likewise act in accordance with treaties ratified by the Federal Assembly.

Article 114.—In addition to the matters mentioned in Articles 110, 112 and 113, other matters may be placed by Federal legislation under the jurisdiction of the Federal Tribunal; in particular, powers may be conferred on the Tribunal for the purpose of ensuring the uniform application of the provisions of Article 64.

IVA.—FEDERAL ADMINISTRATIVE AND DISCIPLINARY JURISDICTION

Article 114 A[15].—The Federal Administrative Court has jurisdiction in regard to administrative disputes in Federal matters referred to it by Federal legislation.

It also has jurisdiction in disciplinary cases in Federal administration referred to it by Federal legislation, in so far as such cases are not reserved to a special jurisdiction.

The administrative Court shall administer the Federal laws and treaties approved by the Federal Assembly.

Subject to the approval of the Federal Assembly, the Cantons have the right to give the Federal Administrative Court jurisdiction in administrative cases in Cantonal affairs.

The organization and procedure of the Federal Administrative and Disciplinary Judiciary are regulated by law.

V.—MISCELLANEOUS PROVISIONS

Article 115.—The seat of government of the Confederation and all matters in relation thereto shall be determined by Federal legislation.

Article 116.—The three principal languages spoken in Switzerland, German, French and Italian, are the national languages of the Confederation.

Article 117.—Officials of the Confederation are held responsible for their conduct in office. Their responsibility shall be determined by Federal legislation.

CHAPTER III[16]

REVISION OF THE FEDERAL CONSTITUTION

Article 118.—The Federal Constitution may at any time be wholly or partially amended.

Article 119.—A total revision is effected through the forms required for passing Federal laws.

Article 120.—When either division of the Federal Assembly passes a resolution for the total revision of the Constitution, and the other division does not agree, or when 50,000 Swiss voters demand a total revision, the question whether the

[15] This Article was added by referendum on October 25, 1914.
[16] This Chapter was amended by referendum on July 5, 1891.

Constitution ought to be revised is in either case submitted to the people, who vote "Yes" or "No."

If in either case a majority of the Swiss citizens who vote pronounce in the affirmative, there shall be a new election of both Councils for the purpose of undertaking the revision.

Article 121.—A partial revision may take place by means of the popular initiative, or through the forms prescribed for passing Federal laws.

The popular initiative consists in a demand by 50,000 Swiss voters for the addition of a new Article to the Constitution, or for the repeal or modification of certain Articles of the Constitution already in force.

If by means of the popular initiative several different provisions are presented for revision or for addition to the Federal Constitution, each must form the subject of a separate initiative demand. The initiative demand may take the form of a proposal in general terms or of a Bill complete in all details.

When a demand is couched in general terms the Federal Assembly, if it approve thereof, will proceed to undertake the partial revision in the sense indicated in the demand, and will submit it for adoption or rejection by the people and the Cantons. If, on the contrary, it does not approve, the question whether there shall be a partial revision or not must be submitted to the vote of the people; if a majority of the Swiss citizens taking part in the vote pronounce in the affirmative, the Federal Assembly will proceed to undertake the revision in conformity with the decision of the people.

When a demand is presented in the form of a Bill complete in all details, and the Federal Assembly approves thereof, the Bill shall be submitted for adoption or rejection by the people and the Cantons. If the Federal Assembly does not approve, it may frame a Bill of its own or recommend to the people the rejection of the Bill proposed, and submit to the people its own Bill or proposal for rejection at the same time as the Bill presented by popular initiative.

Article 122.—Federal legislation shall determine the formalities to be observed in regard to popular initiative demands and to voting concerning the revision of the Federal Constitution.

Article 123.—The revised Federal Constitution, or the revised part thereof, shall come into force when it has been accepted by a majority of the Swiss citizens taking part in the voting thereon and by a majority of the States.

In reckoning a majority of the States the vote of a half Canton is counted as half a vote. The result of the popular vote in each Canton is to be regarded as the vote of the State.

(*Transitory Provisions not printed*).

CHAPTER IV

CONSTITUTION OF AUSTRALIA

COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT (1900).

[9th July, 1900.]

An Act to constitute the Commonwealth of Australia.

Whereas the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, humbly relying on the blessing of Almighty God, have agreed to unite in one indissoluble Federal Commonwealth under the Crown of the United Kingdom of Great Britain and Ireland, and under the Constitution hereby established:

And whereas it is expedient to provide for the admission into the Commonwealth of other Australian Colonies and possessions of the Queen:

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

1. This Act may be cited as the Commonwealth of Australia Constitution Act.

2. The provisions of this Act referring to the Queen shall extend to Her Majesty's heirs and successors in the sovereignty of the United Kingdom.

3. It shall be lawful for the Queen, with the advice of the Privy Council, to declare by proclamation that, on and after a day therein appointed, not being later than one year after the passing of this Act, the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, and also, if Her Majesty is satisfied that the people of Western Australia have agreed thereto, of Western Australia, shall be united in a Federal Commonwealth under the name of the Commonwealth of Australia. But the Queen may, at any time after the proclamation, appoint a Governor-General for the Commonwealth.

4. The Commonwealth shall be established, and the Constitution of the Commonwealth shall take effect, on and after the day so appointed. But the Parliaments of the several colonies may at any time after the passing of this Act make any such laws, to come into operation on the day so appointed, as they might have made if the Constitution had taken effect at the passing of this Act.

5. This Act, and all laws made by the Parliament of the Commonwealth under the Constitution, shall be binding on the courts, judges, and people of every State and of every part of the Commonwealth, notwithstanding anything in the laws of any State; and the laws of the Commonwealth shall be in force on all British ships, the Queen's ships of war excepted, whose first port of clearance and whose port of destination are in the Commonwealth.

6. "The Commonwealth" shall mean the Commonwealth of Australia as established under this Act.

"The States" shall mean such of the colonies of New South Wales, New Zealand, Queensland, Tasmania, Victoria, Western Australia, and South Australia, including the northern territory of South Australia, as for the time being are parts of the Commonwealth, and such colonies or territories as may be admitted into or established by the Commonwealth as States; and each of such parts of the Commonwealth shall be called "a State."

"Original States" shall mean such States as are parts of the Commonwealth at its establishment.

7. The Federal Council of Australasia Act, 1885, is hereby repealed, but so as not to affect any laws passed by the Federal Council of Australia and in force at the establishment of the Commonwealth.

Any such law may be repealed as to any State by the Parliament of the Commonwealth, or as to any colony not being a State by the Parliament thereof.

8. After the passing of this Act the Colonial Boundaries Act, 1895, shall not apply to any colony which becomes a State of the Commonwealth; but the Commonwealth shall be taken to be a self-governing colony for the purposes of that Act.

9. The Constitution of the Commonwealth shall be as follows:—

THE CONSTITUTION

This Constitution is divided as follows:—

Chapter I.—The Parliament:
Part I.—General:
Part II.—The Senate:
Part III.—The House of Representatives:
Part IV.—Both Houses of the Parliament:
Part V.—Powers of the Parliament:
Chapter II.—The Executive Government:
Chapter III.—The Judicature:
Chapter IV.—Finance and Trade:
Chapter V.—The States:
Chapter VI.—New States:
Chapter VII.—Miscellaneous:
Chapter VIII.—Alteration of the Constitution.
The Schedule.

CHAPTER I.—THE PARLIAMENT.

PART I.—GENERAL.

1. The legislative power of the Commonwealth shall be vested in a Federal Parliament, which shall consist of the Queen, a Senate, and a House of Representatives, and which is hereinafter called "The Parliament," or "The Parliament of the Commonwealth."

2. A Governor-General appointed by the Queen shall be Her Majesty's representative in the Commonwealth, and shall have and may exercise in the Commonwealth during the Queen's pleasure, but subject to this Constitution, such powers and functions of the Queen as Her Majesty may be pleased to assign to him.

3. There shall be payable to the Queen out of the Consolidated Revenue fund of the Commonwealth, for the salary of the Governor-General, an annual sum which, until the Parliament otherwise provides, shall be ten thousand pounds.

The salary of a Governor-General shall not be altered during his continuance in office.

4. The provisions of this Constitution relating to the Governor-General extend and apply to the Governor-General for the time being, or such person as the Queen may appoint to administer the Government of the Commonwealth; but no such person shall be entitled to receive any salary from the Commonwealth in respect of any other office during his administration of the Government of the Commonwealth.

5. The Governor-General may appoint such times for holding the sessions of the Parliament as he thinks fit, and may also from time to time, by Proclamation or otherwise, prorogue the Parliament, and may in like manner dissolve the House of Representatives.

After any general election the Parliament shall be summoned to meet not later than thirty days after the day appointed for the return of the writs.

The Parliament shall be summoned to meet not later than six months after the establishment of the Commonwealth.

6. There shall be a session of the Parliament once at least in every year, so that twelve months shall not intervene between the last sitting of the Parliament in one session and its first sitting in the next session.

PART II.—THE SENATE.

7. The Senate shall be composed of senators for each State, directly chosen by the people of the State, voting, until the Parliament otherwise provides, as one electorate.

But until the Parliament of the Commonwealth otherwise provides, the Parliament of the State of Queensland, if that State be an Original State, may make laws dividing the State into divisions and determining the number of senators to be chosen for each division, and in the absence of such provision that State shall be one electorate.

Until the Parliament otherwise provides there shall be six[1] senators for each Original State. The Parliament may make laws increasing or diminishing the number of senators for each State, but so that equal representation of the several Original States shall be maintained and that no Original State shall have less than six senators.

The senators shall be chosen for a term of six years, and the names of the senators chosen for each State shall be certified by the Governor to the Governor-General.

8. The qualification of electors of senators shall be in each State that which is prescribed by this Constitution, or by the Parliament, as the qualification for electors of members of the House of Representatives; but in the choosing of senators each elector shall vote only once.

9. The Parliament of the Commonwealth may make laws prescribing the method of choosing senators, but so that the method shall be uniform for all the States. Subject to any such law, the Parliament of each State may make laws prescribing the method of choosing the senators for that State.

The Parliament of a State may make laws for determining the times and places of elections of senators for the State.

10. Until the Parliament otherwise provides, but subject to this Constitution, the laws in force in each State, for the time being, relating to elections for the more numerous House of the Parliament of the State shall, as nearly as practicable, apply to elections of senators for the State.

11. The Senate may proceed to the despatch of business, notwithstanding the failure of any State to provide for its representation in the Senate.

12. The Governor of any State may cause writs to be issued for elections of senators for the State. In case of the dissolution of the Senate the writs shall be issued within ten days from the proclamation of such dissolution.

13. As soon as may be after the Senate first meets, and after each first meeting of the Senate following a dissolution thereof, the Senate shall divide the senators chosen for each State into two classes, as nearly equal in number as practicable; and the places of the senators of the first class shall become vacant at the expiration of, three years, and the places of those of the second class at the expiration of six years, from the beginning of their term of service; and afterwards the places of senators shall become vacant at the expiration of six years from the beginning of their term of service.

The election to fill vacant places shall be made within one year before the places are to become vacant.

For the purposes of this section the term of service of a senator shall be taken to begin on the first day of July following the day of his election, except in the cases of the first election and of the election next after any dissolution of the Senate, when it shall be taken to begin on the first day of July preceding the day of his election.

14. Whenever the number of senators for a State is increased or diminished, the Parliament of the Commonwealth may make such provision for the vacating of the places of senators for the State as it deems necessary to maintain regularity in the rotation.

15. If the place of a senator becomes vacant before the expiration of his term of service, the Houses of Parliament of the State for which he was chosen shall, sitting and voting together, choose a person to hold the place until the expiration of the term, or until the election of a successor as hereinafter provided, whichever

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[1] **The Representation Act, 1948 has provided that the number of senators shall be 10 for each State.**

first happens. But if the Houses of Parliament of the State are not in session at the time when the vacancy is notified, the Governor of the State, with the advice of the Executive Council thereof, may appoint a person to hold the place until the expiration of fourteen days after the beginning of the next session of the Parliament of the State, or until the election of a successor, whichever first happens.

At the next general election of members of the House of Representatives, or at the next election of senators for the State, whichever first happens, a successor shall, if the term has not then expired, be chosen to hold the place from the date of his election until the expiration of the term.

The name of any senator so chosen or appointed shall be certified by the Governor of the State to the Governor-General.

16. The qualifications of a senator shall be the same as those of a member of the House of Representatives.

17. The Senate shall, before proceeding to the despatch of any other business, choose a senator to be the President of the Senate; and as often as the office of President becomes vacant the Senate shall again choose a senator to be the President.

The President shall cease to hold his office if he ceases to be a senator. He may be removed from office by a vote of the Senate, or he may resign his office or his seat by writing addressed to the Governor-General.

18. Before or during any absence of the President, the Senate may choose a senator to perform his duties in his absence.

19. A senator may, by writing addressed to the President, or to the Governor-General if there is no President or if the President is absent from the Commonwealth, resign his place, which thereupon shall become vacant.

20. The place of a senator shall become vacant if for two consecutive months of any session of the Parliament he, without the permission of the Senate, fails to attend the Senate.

21. Whenever a vacancy happens in the Senate, the President, or if there is no President or if the President is absent from the Commonwealth the Governor-General, shall notify the same to the Governor of the State in the representation of which the vacancy has happened.

22. Until the Parliament otherwise provides, the presence of at leasts one-third of the whole number of the senators shall be necessary to constitute a meeting of the Senate for the exercise of its powers.

23. Questions arising in the Senate shall be determined by a majority of votes, and each senator shall have one vote. The President shall in all cases be entitled to a vote; and when the votes are equal the question shall pass in the negative.

PART III.—THE HOUSE OF REPRESENTATIVES.

24. The House of Representatives shall be composed of members directly chosen by the people of the Commonwealth, and the number of such members shall be, as nearly as practicable, twice the number of the senators.

The number of members chosen in the several States shall be in proportion to the respective numbers of their people, and shall, until the Parliament otherwise provides, be determined, whenever necessary, in the following manner:—

(*i*) A quota shall be ascertained by dividing the number of the people of the Commonwealth, as shown by the latest statistics of the Commonwealth, by twice the number of the senators:

(*ii*) The number of members to be chosen in each State shall be determined by dividing the number of the people of the State, as shown by the latest statistics of the Commonwealth, by the quota; and if on such division there is a remainder greater than one-half of the quota, one more member shall be chosen in the State.

But notwithstanding anything in this section, five members at least shall be chosen in each Original State.

25. For the purposes of the last section, if by the law of any State all persons of any race are disqualified from voting at elections for the more numerous House of the Parliament of the State, then, in reckoning the number of the people of the State or of the Commonwealth, persons of that race resident in that State shall not be counted.

26. Notwithstanding anything in section twenty-four, the number of members to be chosen in each State at the first election shall be as follows:—

New South Wales	... twenty-three;
Victoria	... twenty;
Queensland	... eight;
South Australia	... six;
Tasmania	... five;

Provided that if Western Australia is an Original State, the number shall be as follows:—

New South Wales	... twenty-six;
Victoria	... twenty-three;
Queensland	... nine;
South Australia	... seven;
Western Australia	... five;
Tasmania	... five.

27. Subject to this Constitution, the Parliament may make laws for increasing or diminishing the number of the members of the House of Representatives.

28. Every House of Representatives shall continue for three years from the first meeting of the House, and no longer, but may be sooner dissolved by the Governor-General.

29. Until the Parliament of the Commonwealth otherwise provides, the Parliament of any State may make laws for determining the divisions in each State for which members of the House of Representatives may be chosen, and the number of members to be chosen for each division. A division shall not be formed out of parts of different States.

In the absence of other provision, each State shall be one electorate.

30. Until the Parliament otherwise provides, the qualification of electors of members of the House of Representatives shall be in each State that which is prescribed by the law of the State as the qualification of electors of the more numerous House of Parliament of the State; but in the choosing of members each elector shall vote only once.[2]

31. Until the Parliament otherwise provides, but subject to this Constitution, the laws in force in each State for the time being relating to elections for the more numerous House of the Parliament of the State shall, as nearly as practicable, apply to elections in the State of members of the House of Representatives.

32. The Governor-General in Council may cause writs to be issued for general elections of members of the House of Representatives.

After the first general election, the writs shall be issued within ten days from the expiry of a House of Representatives or from the proclamation of a dissolution thereof.

33. Whenever a vacancy happens in the House of Representatives, the Speaker shall issue his writ for the election of a new member, or if there is no Speaker or if he is absent from the Commonwealth the Governor-General in Council may issue the writ.

34. Until the Parliament otherwise provides[2], the qualifications of a member of the House of Representatives shall be as follows:—

(*i*) He must be of the full age of twenty-one years, and must be an elector entitled to vote at the election of members of the House of Representa-

[2] Parliament has provided otherwise, by the Commonwealth Electoral Act, 1918-49.

tives, or a person qualified to become such elector, and must have been for three years at the least a resident within the limits of the Commonwealth as existing at the time when he is chosen;

(*ii*) He must be a subject of the Queen, either natural-born or for at least five years naturalized under a law of the United Kingdom, or of a Colony which has become or becomes a State, or of the Commonwealth, or of a State.

35. The House of Representatives shall, before proceeding to the despatch of any other business, choose a member to be the Speaker of the House, and as often as the office of Speaker becomes vacant the House shall again choose a member to be the Speaker.

The Speaker shall cease to hold his office if he ceases to be a member. He may be removed from office by a vote of the House, or he may resign his office or his seat by writing addressed to the Governor-General.

36. Before or during any absence of the Speaker, the House of Representatives may choose a member to perform his duties in his absence.

37. A member may by writing addressed to the Speaker, or to the Governor-General if there is no Speaker or if the Speaker is absent from the Commonwealth, resign his place, which thereupon shall become vacant.

38. The place of a member shall become vacant if for two consecutive months of any session of the Parliament he, without the permission of the House, fails to attend the House.

39. Until the Parliament otherwise provides, the presence of at least one-third of the whole number of the members of the House of Representatives shall be necessary to constitute a meeting of the House for the exercise of its powers.

40. Questions arising in the House of Representatives shall be determined by a majority of votes other than that of the Speaker. The Speaker shall not vote unless the numbers are equal, and then he shall have a casting vote.

PART IV.—BOTH HOUSES OF THE PARLIAMENT.

41. No adult person who has or acquires a right to vote at elections for the more numerous House of the Parliament of a State shall, while the right continues, be prevented by any law of the Commonwealth from voting at elections for either House of the Parliament of the Commonwealth.

42. Every senator and every member of the House of Representatives shall before taking his seat make and subscribe before the Governor-General, or some person authorized by him, an oath or affirmation of allegiance in the form set forth in the schedule to this Constitution.

43. A member of either House of the Parliament shall be incapable of being chosen or of sitting as a member of the other House.

44. Any person who—

(*i*) Is under any acknowledgment of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power: or

(*ii*) Is attainted of treason, or has been convicted and is under sentence, or subject to be sentenced, for any offence punishable under the law of the Commonwealth or of a State by imprisonment for one year or longer: or

(*iii*) Is an undischarged bankrupt or insolvent: or

(*iv*) Holds any office of profit under the Crown, or any pension payable during the pleasure of the Crown out of any of the revenues of the Commonwealth: or

(*v*) Has any direct or indirect pecuniary interest in any agreement with the Public Service of the Commonwealth otherwise than as a member and

in common with the other members of an incorporated company consisting of more than twenty-five persons:

shall be incapable of being chosen or of sitting as a senator or a member of the House of Representatives.

But sub-section (iv) does not apply to the office of any of the Queen's Ministers of State for the Commonwealth, or of any of the Queen's Ministers for a State, or to the receipt of pay, half-pay, or a pension by any person as an officer or member of the Queen's or army, or to the receipt of pay as an officer or member of the naval or military forces of the Commonwealth by any person whose services are not wholly employed by the Commonwealth.

45. If a senator or member of the House of Representatives—

(*i*) Becomes subject to any of the disabilities mentioned in the last preceding section: or

(*ii*) Takes the benefit, whether by assignment, composition or otherwise, of any law relating to bankrupt or insolvent debtors: or

(*iii*) Directly or indirectly takes or agrees to take any fee or honorarium for services rendered to the Commonwealth, or for services rendered in the Parliament to any person or State:

his place shall thereupon become vacant.

46. Until the Parliament otherwise provides, any person declared by this Constitution to be incapable of sitting as a senator or as a member of the House of Representatives shall, for every day on which he so sits, be liable to pay the sum of one hundred pounds to any person who sues for it in any court of competent jurisdiction.

47. Until the Parliament otherwise provides, any question respecting the qualification of a senator or of a member of the House of Representatives, or respecting a vacancy in either House of the Parliament, and any question of a disputed election to either House, shall be determined by the House in which the question arises.

48. Until the Parliament otherwise provides, each senator and each member of the House of Representatives shall receive an allowance of four hundred pounds[3] a year, to be reckoned from the day on which he takes his seat.

49. The powers, privileges, and immunities of the Senate and of the House of Representatives, and of the members and the committees of each House, shall be such as are declared by the Parliament, and until declared shall be those of the Commons House of Parliament of the United Kingdom, and of its members and committees, at the establishment of the Commonwealth.

50. Each House of the Parliament may make rules and orders with respect to—

(*i*) The mode in which its powers, privileges, and immunities may be exercised and upheld:

(*ii*) The order and conduct of its business and proceedings either separately or jointly with the other House.

PART V.—POWERS OF THE PARLIAMENT.

51. The Parliament shall, subject to this Constitution, have power to make laws for the peace, order and good government of the Commonwealth with respect to:—

(*i*) Trade and commerce with other countries, and among the States:

(*ii*) Taxation; but so as not to discriminate between States or parts of States:

(*iii*) Bounties on the production or export of goods, but so that such bounties shall be uniform throughout the Commonwealth:

(*iv*) Borrowing money on the public credit of the Commonwealth:

(*v*) Postal, telegraph, telephonic, and other like services:

[3] It is now £2750 a year, since 1959.

(*vi*) The naval and military defence of the Commonwealth and of the several States, and the control of the forces to execute and maintain the laws of the Commonwealth:

(*vii*) Lighthouses, lightships, beacons and buoys:

(*viii*) Astronomical and meteorological observations:

(*ix*) Quarantine:

(*x*) Fisheries in Australian waters beyond territorial limits:

(*xi*) Census and statistics:

(*xii*) Currency, coinage, and legal tender:

(*xiii*) Banking, other than State banking; also State banking extending beyond the limits of the State concerned, the incorporation of banks, and the issue of paper money:

(*xiv*) Insurance, other than State insurance; also State insurance extending beyond the limits of the State concerned:

(*xv*) Weights and measures:

(*xvi*) Bills of exchange and promissory notes:

(*xvii*) Bankruptcy and insolvency:

(*xviii*) Copyrights, patents of inventions and designs, and trade marks:

(*xix*) Naturalization and aliens:

(*xx*) Foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth:

(*xxi*) Marriage:

(*xxii*) Divorce and matrimonial causes; and in relation thereto, parental rights, and the custody and guardianship of infants:

(*xxiii*) Invalid and old-age pensions:

(*xxiiia*) The provision of maternity allowances, widows' pensions, child endowment, unemployment, pharmaceutical, sickness and hospital benefits, medical and dental services (but not so as to authorize any form of civil conscription), benefits to students and family allowances[4]:

(*xxiv*) The service and execution throughout the Commonwealth of the civil and criminal process and the judgments of the courts of the States:

(*xxv*) The recognition throughout the Commonwealth of the laws, the public Acts and records, and the judicial proceedings of the States:

(*xxvi*) The people of any race, other than the aboriginal race in any State, for whom it is deemed necessary to make special laws:

(*xxvii*) Immigration and emigration:

(*xxviii*) The influx of criminals:

(*xxix*) External affairs:

(*xxx*) The relations of the Commonwealth with the islands of the Pacific:

(*xxxi*) The acquisition of property on just terms from any State or person for any purpose in respect of which the Parliament has power to make laws:

(*xxxii*) The control of railways with respect to transport for the naval and military purposes of the Commonwealth:

(*xxxiii*) The acquisition, with the consent of a State, of any railways of the State on terms arranged between the Commonwealth and the State:

(*xxxiv*) Railway construction and extension in any State with the consent of that State:

(*xxxv*) Conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State:

(*xxxvi*) Matters in respect of which this Constitution makes provision until the Parliament otherwise provides:

(*xxxvii*) Matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States, but so that the law shall extend only to States by whose Parliaments the matter is referred, or which afterwards adopt the law:

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[4] **Inserted by the Constitution Alteration (Social Service) Act, 1946.**

(*xxxviii*) The exercise within the Commonwealth, at the request or with the concurrence of the Parliaments of all the States directly concerned, of any power which can at the establishment of this Constitution be exercised only by the Parliament of the United Kingdom or by the Federal Council of Australia:

(*xxxix*) Matters incidental to the execution of any power vested by this Constitution in the Parliament or in either House thereof, or in the Government of the Commonwealth, or in the Federal Judicature, or in any department or officer of the Commonwealth.

52. The Parliament shall, subject to this Constitution, have exclusive power to make laws for the peace, order, and good government of the Commonwealth with respect to—

(*i*) The seat of government of the Commonwealth, and all places acquired by the Commonwealth for public purposes:

(*ii*) Matters relating to any department of the public service the control of which is by this Constitution transferred to the Executive Government of the Commonwealth:

(*iii*) Other matters declared by this Constitution to be within the exclusive power of the Parliament.

53. Proposed laws appropriating revenue or moneys, or imposing taxation, shall not originate in the Senate. But a proposed law shall not be taken to appropriate revenue or moneys, or to impose taxation, by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand or payment or appropriation of fees for licences, or fees for services under the proposed law.

The Senate may not amend proposed laws imposing taxation, or proposed laws appropriating revenue or moneys for the ordinary annual services of the Government.

The Senate may not amend any proposed law so as to increase any proposed charge or burden on the people.

The Senate may at any stage return to the House of Representatives any proposed law which the Senate may not amend, requesting, by message, the omission or amendment of any items or provisions therein. And the House of Representatives may, if it thinks fit, make any of such omissions or amendments, with or without modifications.

Except as provided in this section, the Senate shall have equal power with the House of Representatives in respect of all proposed laws.

54. The proposed law which appropriates revenue or moneys for the ordinary annual services of the Government shall deal only with such appropriation.

55. Laws imposing taxation shall deal only with the imposition of taxation, and any provision therein dealing with any other matter shall be of no effect.

Laws imposing taxation, except laws imposing duties of customs or of excise, shall deal with one subject of taxation only; but laws imposing duties of customs shall deal with duties of customs only, and laws imposing duties of excise shall deal with duties of excise only.

56. A vote, resolution, or proposed law for the appropriation of revenue or moneys shall not be passed unless the purpose of the appropriation has in the same session been recommended by message of the Governor-General to the House in which the proposal originated.

57. If the House of Representatives passes any proposad law, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, and if after an interval of three months the House of Representatives, in the same or the next session, again passes the proposed law with or without any amendments which have been made, suggested, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amend-

ments to which the House of Representatives will not agree, the Governor-General may dissolve the Senate and the House of Representatives simultaneously. But such dissolution shall not take place within six months before the date of the expiry of the House of Representatives by effluxion of time.

If after such dissolution the House of Representatives again passes the proposed law, with or without any amendments which have been made, suggested, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the Governor-General may convene a joint sitting of the members of the Senate and of the House of Representatives.

The members present at the joint sitting may deliberate and shall vote together upon the proposed law as last proposed by the House of Representatives, and upon amendments, if any, which have been made therein by one House and not agreed to by the other, and any such amendments which are affirmed by an absolute majority of the total number of the members of the Senate and House of Representatives shall be taken to have been carried, and if the proposed law, with the amendments, if any, so carried is affirmed by an absolute majority of the total number of the members of the Senate and House of Representatives, it shall be taken to have been duly passed by both Houses of the Parliament, and shall be presented to the Governor-General for the Queen's assent.

58. When a proposed law passed by both Houses of the Parliament is presented to the Governor-General for the Queen's assent, he shall declare, according to his discretion, but subject to this Constitution, that he assents in the Queen's name, or that he withholds assent, or that he reserves the law for the Queen's pleasure.

The Governor-General may return to the House in which it originated any proposed law so presented to him, and may transmit therewith any amendments which he may recommend, and the Houses may deal with the recommendation.

59. The Queen may disallow any law within one year from the Governor-General's assent, and such disallowance on being made known by the Governor-General by speech or message to each of the Houses of the Parliament, or by Proclamation, shall annual the law from the day when the disallowance is so made known.

60. A proposed law reserved for the Queen's pleasure shall not have any force unless and until within two years from the day on which it was presented to the Governor-General for the Queen's assent the Governor-General makes known, by speech or message to each of the Houses of the Parliament, or by Proclamation, that it has received the Queen's assent.

CHAPTER II.—THE EXECUTIVE GOVERNMENT.

61. The executive power of the Commonwealth is vested in the Queen and is exercisable by the Governor-General as the Queen's representative, and extends to the execution and maintenance of this Constitution, and of the laws of the Commonwealth.

62. There shall be a Federal Executive Council to advise the Governor-General in the government of the Commonwealth, and the members of the Council shall be chosen and summoned by the Governor-General and sworn as Executive Councillors, and shall hold office during his pleasure.

63. The provisions of this Constitution referring to the Governor-General in Council shall be construed as referring to the Governor-General acting with the advice of the Federal Executive Council.

64. The Governor-General may appoint officers to administer such departments of State of the Commonwealth as the Governor-General in Council may establish.

Such officers shall hold office during the pleasure of the Governor-General. They shall be members of the Federal Executive Council, and shall be the Queen's Ministers of State for the Commonwealth.

After the first general election no Minister of State shall hold office for a longer period than three months unless he is or becomes a senator or a member of the House of Representatives.

65. Until the Parliament otherwise provides, the Ministers of State shall not exceed seven in number, and shall hold such offices as the Parliament prescribes, or, in the absence of provisions, as the Governor-General directs.

66. There shall be payable to the Queen, out of the Consolidated Revenue Fund of the Commonwealth, for the salaries of the Ministers of State, an annual sum which, until the Parliament otherwise provides, shall not exceed twelve thousand pounds[5] a year.

67. Until the Parliament otherwise provides, the appointment and removal of all other officers of the Executive Government of the Commonwealth shall be vested in the Governor-General in Council, unless the appointment is delegated by the Governor-General in Council or by a law of the Commonwealth to some other authority.

68. The command in chief of the naval and military forces of the Commonwealth is vested in the Governor-General as the Queen's representative.

69. On a date or dates to be proclaimed by the Governor-General after the establishment of the Commonwealth the following departments of the public service in each State shall become transferred to the Commonwealth:—

Posts, telegraphs, and telephones:
Naval and military defence:
Lighthouses, lightships, beacons, and buoys:
Quarantine.

But the departments of customs and of excise in each State shall become transferred to the Commonwealth on its establishment.

70. In respect of matters which, under this Constitution, pass to the Executive Government of the Commonwealth, all powers and functions which at the establishment of the Commonwealth are vested in the Governor of a Colony, or in the Governor of a Colony with the advice of his Executive Council, or in any authority of a Colony, shall vest in the Governor-General, or in the Governor-General in Council, or in the authority exercising similar powers under the Commonwealth, as the case requires.

CHAPTER III.—THE JUDICATURE.

71. The judicial power of the Commonwealth shall be vested in a Federal Supreme Court, to be called the High Court of Australia, and in such other federal courts as the Parliament creates, and in such other courts as it invests with federal jurisdiction. The High Court shall consist of a Chief Justice, and so many other Justices, not less than two[6] as the Parliament prescribes.

72. The Justices of the High Court and of the other courts created by the Parliament—

(*i*) Shall be appointed by the Governor-General in Council:

(*ii*) Shall not be removed except by the Governor-General in Council, on an address from both Houses of the Parliament in the same session, praying for such removal on the ground of proved misbehaviour or incapacity:

(*iii*) Shall receive such remuneration as the Parliament may fix; but the remuneration shall not be diminished during their continuance in office.

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[5] Under the Financial Relief Act. 1938, Ministers of State now get a salary of £16,950 and an allowance of £640 per annum.

[6] Since 1946, the number of Judges other than the Chief Justice is six.

73. The High Court shall have jurisdiction, with such exceptions and subject to such regulations as the Parliament prescribes, to hear and determine appeals from all judgments, decrees, orders, and sentences—

(*i*) Of any Justice or Justices exercising the original jurisdiction of the High Court:

(*ii*) Of any other federal court, or court exercising federal jurisdiction; or of the Supreme Court of any State, or of any other court of any State from which at the establishment of the Commonwealth an appeal lies to the Queen in Council:

(*iii*) Of the Inter-State Commission, but as to questions of law only:

and the judgment of the High Court in all such cases shall be final and conclusive.

But no exception or regulation prescribed by the Parliament shall prevent the High Court from hearing and determining any appeal from the Supreme Court of a State in any matter in which at the establishment of the Commonwealth an appeal lies from such Supreme Court to the Queen in Council.

Until the Parliament otherwise provides, the conditions of and restrictions on appeals to the Queen in Council from the Supreme Courts of the several States shall be applicable to appeals from them to the High Court.

74. No appeal shall be permitted to the Queen in Council from a decision of the High Court upon any question, howsoever arising, as to the limits inter se of the Constitutional powers of the Commonwealth and those of any State or States, or as to the limits inter se of the Constitutional powers of any two or more States, unless the High Court shall certify that the question is one which ought to be determined by Her Majesty in Council.

The High Court may so certify if satisfied that for any special reason the certificate should be granted, and thereupon an appeal shall lie to Her Majesty in Council on the question without further leave.

Except as provided in this section, this Constitution shall not impair any right which the Queen may be pleased to exercise by virtue of Her Royal prerogative to grant special leave of appeal from the High Court to Her Majesty in Council. The Parliament may make laws limiting the matters in which such leave may be asked, but proposed laws containing any such limitation shall be reserved by the Governor-General for Her Majesty's pleasure.

75. In all matters—

(*i*) Arising under any treaty:

(*ii*) Affecting consuls or other representatives of other countries:

(*iii*) In which the Commonwealth, or a person suing or being sued on behalf of the Commonwealth, is a party:

(*iv*) Between States, or between residents of different States, or between a State and a resident of another State:

(*v*) In which a writ of Mandamus or prohibition or an injunction is sought against an officer of the Commonwealth:

the High Court shall have original jurisdiction.

76. The Parliament may make laws conferring original jurisdiction on the High Court in any matter—

(*i*) Arising under this Constitution, or involving its interpretation:

(*ii*) Arising under any laws made by the Parliament:

(*iii*) Of Admiralty and maritime jurisdiction:

(*iv*) Relating to the same subject-matter claimed under the laws of different States.

77. With respect to any of the matters mentioned in the last two sections the Parliament may make laws—

(*i*) Defining the jurisdiction of any federal court other than the High Court:

(*ii*) Defining the extent to which the jurisdiction of any federal court shall be exclusive of that which belongs to or is invested in the courts of the States:

(*iii*) Investing any court of a State with federal jurisdiction.

78. The Parliament may make laws conferring rights to proceed against the Commonwealth or a State in respect of matters within the limits of the judicial power.

79. The federal jurisdiction of any court may be exercised by such number of judges as the Parliament prescribes.

80. The trial on indictment of any offence against any law of the Commonwealth shall be by jury, and every such trial shall be held in the State where the offence was committed, and if the offence was not committed within any State the trial shall be held at such place or places as the Parliament prescribes.

CHAPTER IV.—FINANCE AND TRADE.

81. All revenues or moneys raised or received by the Executive Government of the Commonwealth shall form one Consolidated Revenue Fund, to be appropriated for the purposes of the Commonwealth in the manner and subject to the charges and liabilities imposed by this Constitution.

82. The costs, charges, and expenses incident to the collection, management, and receipt of the Consolidated Revenue Fund shall form the first charge thereon; and the revenue of the Commonwealth shall in the first instance be applied to the payment of the expenditure of the Commonwealth.

83. No money shall be drawn from the Treasury of the Commonwealth except under appropriation made by law.

But until the expiration of one month after the first meeting of the Parliament the Governor-General in Council may draw from the Treasury and expend such moneys as may be necessary for the maintenance of any department transferred to the Commonwealth and for the holding of the first elections for the Parliament.

84. When any department of the public service of a State becomes transferred to the Commonwealth, all officers of the department shall becomes subject to the control of the Executive Government of the Commonwealth.

Any such officer who is not retained in the service of the Commonwealth shall, unless he is appointed to some other office of equal emolument in the public service of the State, be entitled to receive from the State any pension, gratuity, or other compensation, payable under the law of the State on the abolition of his office.

Any such officer who is retained in the service of the Commonwealth shall preserve all his existing and accruing rights, and shall be entitled to retire from office at the time, and on the pension or retiring allowance, which would be permitted by the law of the State if his service with the Commonwealth were a contiuation of his service with the State. Such pension or retiring allowance shall be paid to him by the Commonwealth; but the State shall pay to the Commonwealth a part thereof, to be calculated on the proportion which his term of service with the State bears to his whole term of service, and for the purpose of the calculation his salary shall be taken to be that paid to him by the State at the time of the transfer.

Any officer who is, at the establishment of the Commonwealth, in the public service of a State, and who is, by consent of the Governor of the State with the advice of the Executive Council thereof, transferred to the public service of the Commonwealth, shall have the same rights as if he had been an officer of a department transferred to the Commonwealth and were retained in the service of the Commonwealth.

85. When any department of the public service of a State is transferred to the Commonwealth—

(*i*) All property of the State of any kind, used exclusively in connexion with the department, shall become vested in the Commonwealth; but, in the case of the departments controlling customs and excise and bounties, for such time only as the Governor-General in Council may declare to be necessary:

(*ii*) The Commonwealth may acquire any property of the State, of any kind used, but not exclusively used in connexion with the department; the value thereof shall, if no agreement can be made, be ascertained in, as nearly as may be, the manner in which the value of land, or of an interest in land, taken by the State for public purposes is ascertained under the law of the State in force at the establishment of the Commonwealth:

(*iii*) The Commonwealth shall compensate the State for the value of any property passing to the Commonwealth under this section; if no agreement can be made as to the mode of compensator, it shall be determined under laws to be made by the Parliament:

(*iv*) The Commonwealth shall, at the date of the transfer, assume the current obligations of the State in respect of the department transferred.

86. On the establishment of the Commonwealth, the collection and control of duties of customs and of excise, and the control of the payment of bounties, shall pass to the Executive Government of the Commonwealth.

87. During a period of ten years after the establishment of the Commonwealth and thereafter until the Parliament otherwise provides, of the net revenue of the Commonwealth from duties of customs and of excise not more than one-fourth shall be applied annually by the Commonwealth towards its expenditure.

The balance shall, in accordance with this Constitution, be paid to the several States, or applied towards the payment of interest on debts of the several States taken over by the Commonwealth.

88. Uniform duties of customs shall be imposed within two years after the establishment of the Commonwealth.

89. Until the imposition of uniform duties of customs—

(*i*) The Commonwealth shall credit to each State the revenues collected therein by the Commonwealth.

(*ii*) The Commonwealth shall debit to each State—

(*a*) The expenditure therein of the Commonwealth incurred solely for the maintenance or continuance, as at the time of transfer, of any department transferred from the State to the Commonwealth;

(*b*) The proportion of the State, according to the number of its people, in the other expenditure of the Commonwealth.

(*iii*) The Commonwealth shall pay to each State month by month the balance (if any) in favour of the State.

90. On the imposition of uniform duties of customs the power of the Parliament to impose duties of customs and of excise, and to grant bounties on the production or export of goods, shall become exclusive.

On the imposition of uniform duties of customs all laws of the several States imposing duties of customs or of excise, or offering bounties on the production or export of goods, shall cease to have effect, but any grant of or agreement for any such bounty lawfully made by or under the authority of the Government of any State shall be taken to be good if made before the thirtieth day of June, one thousand eight hundred and ninety-eight, and not otherwise.

91. Nothing in this Constitution prohibits a State from granting any aid to or bounty on mining for gold, silver, or other metals, nor from granting, with the consent of both Houses of the Parliament of the Commonwealth expressed by resolution, any aid to or bounty on the production or export of goods.

92. On the imposition of uniform duties of customs, trade, commerce, and intercourse among the States, whether by means of internal carriage or ocean navigation, shall be absolutely free.

But notwithstanding anything in this Constitution, goods imported before the imposition of uniform duties of customs into any State, or into any Colony which, whilst the goods remain therein, becomes a State, shall, on thence passing into another State within two years after the imposition of such duties, be liable to any duty chargeable on the importation of such goods into the Commonwealth, less any duty paid in respect of the goods on their importation.

93. During the first five years after the imposition of uniform duties of customs, and thereafter until the Parliament otherwise provides—

(*i*) The duties of customs chargeable on goods imported into a State and afterwards passing into another State for consumption, and the duties of excise paid on goods produced or manufactured in a State and afterwards passing into another State for consumption, shall be taken to have been collected not in the former but in the latter State:

(*ii*) Subject to the last subsection, the Commonwealth shall credit revenue, debit expenditure, and pay balances to the several States as prescribed for the period preceding the imposition of uniform duties of customs.

94. After five years from the imposition of uniform duties of customs, the Parliament may provide, on such basis as it deems fair, for the monthly payment to the several States of all surplus revenue of the Commonwealth.

95. Notwithstanding anything in this Constitution, the Parliament of the State of Western Australia, if that State be an Original State, may, during the first five years after the imposition of uniform duties of customs, impose duties of customs on goods passing into that State and not originally imported from beyond the limits of the Commonwealth; and such duties shall be collected by the Commonwealth.

But any duty so imposed on any goods shall not exceed during the first of such years the duty chargeable on the goods under the law of Western Australia in force at the imposition of uniform duties, and shall not exceed during the second, third, fourth, and fifth of such years respectively, four-fifths, three-fifths, two-fifths, and one-fifth of such latter duty, and all duties imposed under this section shall cease at the expiration of the fifth year after the imposition of uniform duties.

If at any time during the five years the duty on any goods under this section is higher than the duty imposed by the Commonwealth on the importation of the like goods, then such higher duty shall be collected on the goods when imported into Western Australia from beyond the limits of the Commonwealth.

96. During a period of ten years after the establishment of the Commonwealth and thereafter until the Parliament otherwise provides, the Parliament may grant financial assistance to any State on such terms and conditions as the Parliament thinks fit.

97. Until the Parliament otherwise provides, the laws in force in any Colony which has become or becomes a State with respect to the receipt of revenue and the expenditure of money on account of the Government of the Colony, and the review and audit of such receipt and expenditure, shall apply to the receipt of revenue and the expenditure of money on account of the Commonwealth in the State in the same manner as if the Commonwealth, or the Government or an officer of the Commonwealth, were mentioned whenever the Colony, or the Government or an officer of the Colony, is mentioned.

98. The power of the Parliament to make laws with respect to trade and commerce extends to navigation and shipping, and to railways the property of any State.

99. The Commonwealth shall not, by any law or regulation of trade, commerce, or revenue, give preference to one State or any part thereof over another State or any part thereof.

100. The Commonwealth shall not, by any law or regulation of trade or commerce, abridge the right of a State or of the residents therein to the reasonable use of the waters of rivers for conservation or irrigation.

101. There shall be an Inter-State Commission[7], with such powers of adjudication and administration as the Parliament deems necessary for the execution and maintenance, within the Commonwealth, of the provisions of this Constitution relating to trade and commerce, and of all laws made thereunder.

102. The Parliament may by any law with respect to trade or commerce forbid, as to railways, any preference or discrimination by any State, or by any authority constituted under a State, if such preference or discrimination is undue and unreasonable, or unjust to any State; due regard being had to the financial responsibilities incurred by any State in connection with the construction and maintenance of its railways. But no preference or discrimination shall, within the meaning of this section, be taken to be undue and unreasonable, or unjust to any State, unless so adjudged by the Inter-State Commission.

103. The members of the Inter-State Commission—

(*i*) Shall be appointed by the Governor-General in Council:

(*ii*) Shall hold office for seven years, but may be removed within that time by the Governor-General in Council, on an address from both Houses of the Parliament in the same session praying for such removal on the ground of proved misbehaviour or incapacity:

(*iii*) Shall receive such remuneration as the Parliament may fix; but such remuneration shall not be diminished during their continuance in office.

104. Nothing in this Constitution shall render unlawful any rate for the carriage of goods upon a railway, the property of a State, if the rate is deemed by the Inter-State Commission to be necessary for the development of the territory of the State, and if the rate applies equally to goods within the State and to goods passing into the State from other States.

105. The Parliament may take over from the States their public debts or a proportion thereof according to the respective numbers of their people as shown by the latest statistics of the Commonwealth, and may convert, renew, or consolidate such debts, or any part thereof; and the States shall indemnify the Commonwealth in respect of the debts taken over, and thereafter the interest payable in respect of the debts shall be deducted and retained from the portions of the surplus revenue of the Commonwealth payable to the several States, or if such surplus is insufficient, or if there is no surplus, then the deficiency or the whole amount shall be paid by the several States.

105A[8].—(1) The Commonwealth may make agreements with the States with respect to the public debts of the States, including—

(*a*) the taking over of such debts by the Commonwealth;

(*b*) the management of such debts;

(*c*) the payment of interest and the provision and management of sinking funds in respect of such debts;

(*d*) the consolidation, renewal, conversion, and redemption of such debts;

(*e*) the indemnification of the Commonwealth by the States in respect of debts taken over by the Commonwealth; and

(*f*) the borrowing of money by the States or by the Commonwealth, or by the Commonwealth for the States.

(2) The Parliament may make laws for validating any such agreement made before the commencement of this section.

(3) The Parliament may make laws for the carrying out by the parties thereto of any such agreement.

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[7] By an Act of 1912, an Inter-State Commission was appointed for a person of seven years. There has been no other Commission appointed on the expiry of that term.

[8] Inserted by the Constitution Alteration (State Debts.) Act, 1928.

(4) Any such agreement may be varied or rescinded by the parties thereto.

(5) Every such agreement and any such variation thereof shall be binding upon the Commonwealth and the States parties thereto notwithstanding anything contained in this Constitution or the Constitution of the several States or in any law of the Parliament of the Commonwealth or of any State.

(6) The powers conferred by this section shall not be construed as being limited in any way by the provisions of section one hundred and five of this Constitution.

CHAPTER V.—THE STATES.

106. The Constitution of each State of the Commonwealth shall, subject to this Constitution, continue as at the establishment of the Commonwealth, or as at the admission or establishment of the State, as the case may be, until altered in accordance with the Constitution of the State.

107. Every power of the Parliament of a Colony which has become or becomes a State, shall, unless it is by this Constitution exclusively vested in the Parliament of the Commonwealth or withdrawn from the Parliament of the State, continue as at the establishment of the Commonwealth, or as at the admission or establishment of the State, as the case may be.

108. Every law in force in a Colony which has become or becomes a State, and relating to any matter within the powers of the Parliament of the Commonwealth, shall, subject to this Constitution, continue in force in the State; and, until provision is made in that behalf by the Parliament of the Commonwealth, the Parliament of the State shall have such powers of alteration and of repeal in respect of any such law as the Parliament of the Colony had until the Colony became a State.

109. When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.

110. The provisions of this Constitution relating to the Governor of a State extend and apply to the Governor for the time being of the State, or other chief executive officer or administrator of the government of the State.

111. The Parliament of a State may surrender any part of the State to the Commonwealth; and upon such surrender, and the acceptance thereof by the Commonwealth, such part of the State shall become subject to the exclusive jurisdiction of the Commonwealth.

112. After uniform duties of customs have been imposed, a State may levy on imports or exports, or on goods passing into or out of the State, such charges as may be necessary for executing the inspection laws of the State; but the net produce of all charges so levied shall be for the use of the Commonwealth; and any such inspection laws may be annulled by the Parliament of the Commonwealth.

113. All fermented, distilled, or other intoxicating liquids passing into any State or remaining therein for use, consumption, sale, or storage, shall be subject to the laws of the State as if such liquids had been produced in the State.

114. A State shall not, without the consent of the Parliament of the Commonwealth, raise or maintain any naval or military force, or impose any tax on property of any kind belonging to the Commonwealth, nor shall the Commonwealth impose any tax on property of any kind belonging to a State.

115. A State shall not coin money, nor make anything but gold and silver coin a legal tender in payment of debts.

116. The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth.

117. A subject of the Queen, resident in any State, shall not be subject in any other State to any disability or discrimination which would not be equally applicable to him if he were a subject of the Queen resident in such other State.

118. Full faith and credit shall be given, throughout the Commonwealth, to the laws, the public Acts and records, and the judicial proceedings of every State.

119. The Commonwealth shall protect every State against invasion and, on the application of the Executive Government of the State, against domestic violence.

120. Every State shall make provision for the detention in its prisons of persons accused or convicted of offences against the laws of the Commonwealth, and for the punishment of persons convicted of such offences, and the Parliament of the Commonwealth may make laws to give effect to this provision.

CHAPTER VI.—NEW STATES.

121. The Parliament may admit to the Commonwealth or establish new States, and may upon such admission or establishment make or impose such terms and conditions, including the extent of representation in either House of the Parliament, as it thinks fit.

122. The Parliament may make laws for the government of any territory surrendered by any State to and accepted by the Commonwealth, or of any territory placed by the Queen under the authority of and accepted by the Commonwealth, or otherwise acquired by the Commonwealth, and may allow the representation of such territory in either House of the Parliament to the extent and on the terms which it thinks fit.

123. The Parliament of the Commonwealth may, with the consent of the Parliament of a State, and the approval of the majority of the electors of the State voting upon the question, increase, diminish, or otherwise alter the limits of the State, upon such terms and conditions as may be agreed on, and may, with the like consent, make provision respecting the effect and operation of any increase or diminution or alteration of territory in relation to any State affected.

124. A new State may be formed by separation of territory from a State, but only with the consent of the Parliament thereof, and a new State may be formed by the union of two or more States or parts of States, but only with the consent of the Parliaments of the States affected.

CHAPTER VII.—MISCELLANEOUS.

125. The seat of Government of the Commonwealth shall be determined by the Parliament, and shall be within territory which shall have been granted to or acquired by the Commonwealth, and shall be vested in and belong to the Commonwealth, and shall be in the State of New South Wales, and be distant not less than one hundred miles from Sydney.

Such territory shall contain an area of not less than one hundred square miles, and such portion thereof as shall consist of Crown lands shall be granted to the Commonwealth without any payment therefor.

The Parliament shall sit at Melbourne until it meet at the seat of Government.

126. The Queen may authorize the Governor-General to appoint any person, or any persons jointly or severally, to be his deputy or deputies within any part of the Commonwealth, and in that capacity to exercise during the pleasure of the Governor-General such powers and functions of the Governor-General as he thinks fit to assign to such deputy or deputies, subject to any limitations expressed or directions given by the Queen; but the appointment of such deputy or deputies shall not affect the exercise by the Governor-General himself of any power or function.

127. In reckoning the numbers of the people of the Commonwealth, or of a State or other part of the Commonwealth, aboriginal natives shall not be counted.

CHAPTER VIII.—ALTERATION OF THE CONSTITUTION.

128. This Constitution shall not be altered except in the following manner:—

The proposed law for the alteration thereof must be passed by an absolute majority of each House of the Parliament, and not less than two nor more than six months after its passage through both Houses the proposed law shall be submitted in each State to the electors qualified to vote for the election of members of the House of Representatives.

But if either House passes any such proposed law by an absolute majority, and the other House rejects or fails to pass it or passes it with any amendment to which the first-mentioned House will not agree, and if after an interval of three months the first-mentioned House in the same or the next session again passes the proposed law by an absolute majority with or without any amendment which has been made or agreed to by the other House, and such other House rejects or fails to pass it or passes it with any amendment to which the first-mentioned House will not agree, the Governor-General may submit the proposed law as last proposed by the first-mentioned House, and either with or without any amendments subsequently agreed to by both Houses, to the electors in each State qualified to vote for the election of the House of Representatives.

When a proposed law is submitted to the electors the vote shall be taken in such manner as the Parliament prescribes. But until the qualification of electors of members of the House of Representatives becomes uniform throughout the Commonwealth, only one-half the electors voting for and against the proposed law shall be counted in any State in which adult suffrage prevails.

And if in a majority of the States a majority of the electors voting approve the proposed law, and if a majority of all the electors voting also approve the proposed law, it shall be presented to the Governor-General for the Queen's assent.

No alteration diminishing the proportionate representation of any State in either House of the Parliament, or the minimum number of representatives of a State in the House of Representatives or increasing, diminishing, or otherwise altering the limits of the State, or in any manner affecting the provisions of the Constitution in relation thereto, shall become law unless the majority of the electors voting in that State approve the proposed law.

(*Schedule not printed*)

CHAPTER V.

CONSTITUTION

OF

THE UNION OF SOVIET SOCIALIST REPUBLICS (1936)[1]

Art. 1.—The Union of Soviet Socialist Republics is a socialist state of workers and peasants.

Art. 2.—The political foundation of the U.S.S.R. is the Soviets of Working People's Deputies, which grew and became strong as a result of the overthrow of the power of the landlords and capitalists and the conquest of the dictatorship of the proletariat.

Art. 3.—All power in the U.S.S.R. belongs to the working people of town and country as represented by the Soviets of Working People's Deputies.

Art. 4.—The economic foundation of the U.S.S.R. is the socialist system of economy and the socialist ownership of the instruments and means of production, firmly established as a result of the liquidation of the capitalist system of economy, the abolition of private ownership of the instruments and means of production, and the elimination of the exploitation of man by man.

Art. 5.—Socialist property in the U.S.S.R. exists either in the form of state property (belonging to the whole people) or in the form of co-operative and collective-farms property of co-operative societies).

Art. 6.—The land, its mineral wealth, waters, forests, mills, factories, mines, rail, water and air transport, banks, communications, large state-organized agricultural enterprises (state farms, machine and tractor stations and the like), as well as municipal enterprises and the bulk of the dwelling-houses in the cities and industrial localities, are state property, that is, belong to the whole people.

Art. 7.—The common enterprises of collective farms and co-operative organizations, with their livestock and implements, the products of the collective farms and co-operative organizations, as well as their common buildings, constitute the common, socialist property of the collective farms and co-operative organizations.

Every household in a collective farm, in addition to its basic income from the common collective-farm enterprise, has for its personal use a small plot of household land and, as its personal property, a subsidiary husbandry on the plot, a dwelling-house, livestock, poultry and minor agricultural implements—in accordance with the rules of the agricultural artel.

Art. 8.—The land occupied by collective farms is secured to them for their use free of charge and for an unlimited time, that is, in perpetuity.

Art. 9.—Alongside the socialist system of economy, which is the predominant form of economy in the U.S.S.R., the law permits the small private economy of individual peasants and handicraftsmen based on their own labour and precluding the exploitation of the labour of others.

Art. 10.—The personal property right of citizens in their incomes and savings from work, in their dwelling-houses and subsidiary husbandries, in articles of domestic economy and use and articles of personal use and convenience, as well as the right of citizens to inherit personal property, is protected by law.

Art. 11.—The economic life of the U.S.S.R. is determined and directed by the state national-economic plan, with the aim of increasing the public wealth, of steadily raising the material and cultural standards of the working people, of consolidating the independence of the U.S.S.R. and strengthening its defensive capacity.

Art. 12.—Work in the U.S.S.R. is a duty and a matter of honour for every able-bodied citizen, in accordance with the principle: "He who does not work, neither shall he eat."

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[1] As amended up to 1960 (originally adopted December 5, 1936).

The principle applied in the U.S.S.R. is that of socialism: "From each according to his ability, to each according to his work."

Art. 13.—The Union of Soviet Socialist Republics is a federal state, formed on the basis of a voluntary union of equal Soviet Socialist Republics, namely:

The Russian Soviet Federative Socialist Republic.
The Ukrainian Soviet Socialist Republic.
The Byelorussian Soviet Socialist Republic.
The Uzbek Soviet Socialist Republic.
The Kazakh Soviet Socialist Republic.
The Georgian Soviet Socialist Republic.
The Azerbaijan Soviet Socialist Republic.
The Lithuanian Soviet Socialist Republic.
The Moldavian Soviet Socialist Republic.
The Latvian Soviet Socialist Republic.
The Kirghiz Soviet Socialist Republic.
The Tajik Soviet Socialist Republic.
The Armenian Soviet Socialist Republic.
The Turkmen Soviet Socialist Republic.
The Estonian Soviet Socialist Republic.
The Karelo-Finnish Soviet Socialist Republic.

Art. 14.—The jurisdiction of the Union of Soviet Socialist Republics, as represented by its higher organs of state power and organs of state administration, embraces:

(a) Representation of the U.S.S.R. in international relations, conclusion, ratification and denunciation of treaties of the U.S.S.R. with other states, establishment of general procedure governing the relations of Union Republics with foreign states;

(b) Questions of war and peace;

(c) Admission of new republics into the U.S.S.R.;

(d) Control over the observance of the Constitution of the U.S.S.R., and ensuring conformity of the Constitutions of the Union Republics with the Constitution of the U.S.S.R.;

(e) Confirmation of alterations of boundaries between Union Republics;

(f) Confirmation of the formation of new Autonomous Republics and Autonomous Regions within Union Republics;

(g) Organization of the defence of the U.S.S.R., direction of all the Armed Forces of the U.S.S.R., determination of directing principles governing the organization of the military formations of the Union Republics;

(h) Foreign trade on the basis of state monopoly;

(i) Safeguarding the security of the state;

(j) Determination of the national-economic plans of the U.S.S.R.;

(k) Approval of the consolidated state budget of the U.S.S.R. and of the report on its fulfilment; determination of the taxes and revenues which go to the Union, the Republican and the local budgets;

(l) Administration of the banks, industrial and agricultural institutions and enterprises and trading enterprises of all-Union jurisdiction; general guidance of industry and construction under Union-Republican jurisdiction;

(m) Administration of transport and communications of all-Union importance;

(n) Direction of the monetary and credit system;

(o) Organization of state insurance;

(p) Contracting and granting of loans;

(q) Determination of the basic principles of land tenure and of the use of mineral wealth, forests and waters;

(r) Determination of the basic principles in the spheres of education and public health;

(s) Organization of a uniform system of national-economic statistics;

(t) Determination of the principles of labour legislation;

(u) Determination of the principles of legislation concerning the judicial system and judicial procedure and of the principles of civil and criminal codes;

(v) Legislation concerning Union citizenship; legislation concerning rights of foreigners;

(w) Determination of the principles of legislation concerning marriage and the family;

(x) Issuing of all-Union acts of amnesty.

Art. 15.—The sovereignty of the Union Republics is limited only in the spheres defined in Article 14 of the Constitution of the U.S.S.R. Outside of these spheres each Union Republic exercises state authority independently. The U.S.S.R. protects the sovereign rights of the Union Republics.

Art. 16.—Each Union Republic has its own Constitution, which takes account of the specific features of the Republic and is drawn up in full conformity with the Constitution of the U.S.S.R.

Art. 17.—The right freely to secede from the U.S.S.R. is reserved to every Union Republic.

Art. 18.—The territory of a Union Republic may not be altered without its consent.

Art. 18-A.—Each Union Republic has the right to enter into direct relations with foreign states and to conclude agreements and exchange diplomatic and consular representatives with them.

Art. 18-B.—Each Union Republic has its own republican military formations.

Art. 19.—The laws of the U.S.S.R. have the same force within the territory of every Union Republic.

Art. 20.—In the event of divergence between a law of a Union Republic and a law of the Union, the Union law prevails.

Art. 21.—Uniform Union citizenship is established for citizens of the U.S.S.R. Every citizen of a Union Republic is a citizen of the U.S.S.R.

Art. 22.—The Russian Soviet Federative Socialist Republic includes the Bashkir, Buryat, Daghestan, Kabardinian-Balkar, Kalmyk, Karelian, Komi, Mari, Mordovian, North Ossetian, Tatar, Udmurt, Checheno-Ingush, Chuvash and Yakut Autonomous Soviet Socialist Republics; and the Adygei, Gorny Altai, Jewish, Karachai-Cherkess, Tuva and Khakass Autonomous Regions.

Art. 23.—*Repealed.*

Art. 24.—The Azerbaijan Soviet Socialist Republic includes the Nakhichevan Autonomous Soviet Socialist Republic and the Nagorny Karabakh Autonomous Region.

Art. 25.—The Georgian Soviet Socialist Republic includes the Abkhazian and Ajarian Autonomous Soviet Socialist Republics and the South Ossetian Autonomous Region.

Art. 26.—The Uzbek Soviet Socialist Republic includes the Kara-Kalpak Autonomous Soviet Socialist Republic.

Art. 27.—The Tajik Soviet Socialist Republic includes the Gorny Badakhshan Autonomous Region.

Art. 28.—The solution of problems pertaining to the administrative-territorial structure of the regions and territories of the Union Republics comes within the jurisdiction of the Union Republics.

Art. 29.—*Repealed.*

Art. 30.—The highest organ of state power in the U.S.S.R. is the Supreme Soviet of the U.S.S.R.

Art. 31.—The Supreme Soviet of the U.S.S.R. exercises all rights vested in the Union of Soviet Socialist Republics in accordance with Article 14 of the Constitution, in so far as they do not, by virtue of the Constitution, come within the jurisdiction of organs of the U.S.S.R. that are accountable to the Supreme Soviet of the U.S.S.R., that is, the Presidium of the Supreme Soviet of the U.S.S.R., the Council of Ministers of the U.S.S.R., and the Ministries of the U.S.S.R.

Art. 32.—The legislative power of the U.S.S.R. is exercised exclusively by the Supreme Soviet of the U.S.S.R.

Art. 33.—The Supreme Soviet of the U.S.S.R. consists of two Chambers: the Soviet of the Union and the Soviet of Nationalities.

Art. 34.—The Soviet of the Union is elected by the citizens of the U.S.S.R. voting by election districts on the basis of one deputy for every 300,000 of the population.

Art. 35.—The Soviet of Nationalities is elected by the citizens of the U.S.S.R. voting by Union Republics, Autonomous Republics, Autonomous Regions, and National Areas on the basis of 25 deputies from each Union Republic, 11 deputies from each Autonomous Republic, 5 deputies from each Autonomous Region and one deputy from each National Area.

Art. 36.—The Supreme Soviet of the U.S.S.R. is elected for a term of four years.

Art. 37.—The two Chambers of the Supreme Soviet of the U.S.S.R., the Soviet of the Union and the Soviet of Nationalities, have equal rights.

Art. 38.—The Soviet of the Union and the Soviet of Nationalities have equal powers to initiate legislation.

Art. 39.—A law is considered adopted if passed by both Chambers of the Supreme Soviet of the U.S.S.R. by a simple majority vote in each.

Art. 40.—Laws passed by the Supreme Soviet of the U.S.S.R. are published in the languages of the Union Republics over the signatures of the President and Secretary of the Presidium of the Supreme Soviet of the U.S.S.R.

Art. 41.—Sessions of the Soviet of the Union and of the Soviet of Nationalities begin and terminate simultaneously.

Art. 42.—The Soviet of the Union elects a Chairman of the Soviet of the Union and four Vice-Chairmen.

Art. 43.—The Soviet of Nationalities elects a Chairman of the Soviet of Nationalities and four Vice-Chairmen.

Art. 44.—The Chairmen of the Soviet of the Union and the Soviet of Nationalitieis preside at the sittings of the respective Chambers and have charge of the conduct of their business and proceedings.

Art. 45.—Joint sittings of the two Chambers of the Supreme Soviet of the U.S.S.R. are presided over alternately by the Chairman of the Soviet of the Union and the Chairman of the Soviet of Nationalities.

Art. 46.—Sessions of the Supreme Soviet of the U.S.S.R. are convened by the Presidium of the Supreme Soviet of the U.S.S.R. twice a year.

Extraordinary sessions are convened by the Presidium of the Supreme Soviet of the U.S.S.R. at its discretion or on the demand of one of the Union Republics.

Art. 47.—In the event of disagreement between the Soviet of the Union and the Soviet of Nationalities, the question is referred for settlement to a conciliation commission formed by the Chambers on a parity basis. If the conciliation commission fails to arrive at an agreement or if its decision fails to satisfy one of the Chambers, the question is considered for a second time by the Chambers. Failing agreement between the two Chambers, the Presidium of the Supreme Soviet of the U.S.S.R. dissolves the Supreme Soviet of the U.S.S.R. and orders new elections.

Art. 48.—The Supreme Soviet of the U.S.S.R. at a joint sitting of the two Chambers elects the Presidium of the Supreme Soviet of the U.S.S.R., consisting of a President of the Presidium of the Supreme Soviet of the U.S.S.R., fifteen Vice-Presidents—one from each Union Republic, a Secretary of the Presidium and sixteen members of the Presidium of the Supreme Soviet of the U.S.S.R.

The Presidium of the Supreme Soviet of the U.S.S.R. is accountable to the Supreme Soviet of the U.S.S.R. for all its activities.

Art. 49.—The Presidium of the Supreme Soviet of the U.S.S.R.

(a) Convenes the sessions of the Supreme Soviet of the U.S.S.R.;

(b) Issues decrees;

(c) Gives interpretations of the laws of the U.S.S.R. in operation;

(d) Dissolves the Supreme Soviet of the U.S.S.R. in conformity with Article 47 of the Constitution of the U.S.S.R. and orders new elections;

(e) Demand of one of the Union Republics;

(f) Annuls decisions and orders of the Council of Ministers of the U.S.S.R. and of the Councils of Ministers of the Union Republics if they do not conform to law;

(g) In the intervals between sessions of the Supreme Soviet of the U.S.S.R., releases and appoints Ministers of the U.S.S.R. on the recommendation of the Chairman of the Council of Ministers of the U.S.S.R., subject to subsequent confirmation by the Supreme Soviet of the U.S.S.R.;

(h) Institutes decorations (Orders and Medals) and titles of honour of the U.S.S.R.;

(i) Awards Orders and Medals and confers titles of honour of the U.S.S.R.;

(j) Exercises the right of pardon;

(l) Appoints and removes the high command of the Armed Forces of the U.S.S.R.;

(m) In the intervals between sessions of the Supreme Soviet of the U.S.S.R., proclaims a state of war in the event of military attack on the U.S.S.R., or when necessary to fulfil international treaty obligations concerning mutual defence against aggression;

(n) Orders general or partial mobilization;

(o) Ratifies and denounces international treaties of the U.S.S.R.;

(p) Appoints and recalls plenipotentiary representatives of the U.S.S.R. to foreign states;

(q) Receives the letters of credence and recall of diplomatic representatives accredited to it by foreign states;

(r) Proclaims martial law in separate localities or throughout the U.S.S.R. in the interests of the defence of the U.S.S.R. or of the maintenance of public order and the security of the state.

Art. 50.—The Soviet of the Union and the Soviet of Nationalities elect Credentials Committees to verify the credentials of the members of the respective Chambers.

On the report of the Credentials Committees, the Chambers decide whether to recognize the credentials of deputies or to annul their election.

Art. 51.—The Supreme Soviet of the U.S.S.R., when it deems necessary, appoints commissions of investigation and audit on any matter.

It is the duty of all institutions and officials to comply with the demands of such commissions and to submit to them all necessary materials and documents.

Art. 52.—A member of the Supreme Soviet of the U.S.S.R. may not be prosecuted or arrested without the consent of the Supreme Soviet of the U.S.S.R., or, when the Supreme Soviet of the U.S.S.R. is not in session, without the consent of the Presidium of the Supreme Soviet of the U.S.S.R.

Art. 53.—On the expiration of the term of office of the Supreme Soviet of the U.S.S.R., or on its dissolution prior to the expiration of its term of office, the Presidium of the Supreme Soviet of the U.S.S.R. retains its powers until the newly-elected Supreme Soviet of the U.S.S.R. shall have formed a new Presidium of the Supreme Soviet of the U.S.S.R.

Art. 54.—On the expiration of the term of office of the Supreme Soviet of the U.S.S.R, or in the event of its dissolution prior to the expiration of its term of office, the Presidium of the Supreme Soviet of the U.S.S.R. orders new elections to be held within a period not exceeding two months from the date of expiration of the term of office or dissolution of the Supreme Soviet of the U.S.S.R.

Art. 55.—The newly-elected Supreme Soviet of the U.S.S.R. is convened by the outgoing Presidium of the Supreme Soviet of the U.S.S.R. not later than three months after the elections.

Art. 56.—The Supreme Soviet of the U.S.S.R., at a joint sitting of the two Chambers, appoints the Government of the U.S.S.R., namely, the Council of Ministers of the U.S.S.R.

Art. 57.—The highest organ of state power in a Union Republic is the Supreme Soviet of the Union Republic.

Art. 58.—The Supreme Soviet of a Union Republic is elected by the citizens of the Republic for a term of four years.

The basis of representation is established by the Constitution of the Union Republic.

Art. 59.—The Supreme Soviet of a Union Republic is the sole legislative organ of the Republic.

Art. 60.—The Supreme Soviet of a Union Republic:

(a) Adopts the Constitution of the Republic and amends it in conformity with Article 16 of the Constitution of the U.S.S.R.;

(b) Confirms the Constitutions of the Autonomous Republics forming part of it and defines the boundaries of their territories;

(c) Approves the national-economic plan and the budget of the Republic and forms economic administration areas;

(d) Exercises the right of amnesty and pardon of citizens sentenced by the judicial organs of the Union Republic;

(e) Decides questions of representation of the Union Republic in its international relations;

(f) Determines the manner of organizing the Republic's military formations.

Art. 61.—The Supreme Soviet of a Union Republic elects the Presidium of the Supreme Soviet of the Union Republic, consisting of a President of the Presidium of the Supreme Soviet of the Union Republic, Vice-Presidents, a Secretary of the Presidium and members of the Presidium of the Supreme Soviet of the Union Republic.

The powers of the Presidium of the Supreme Soviet of a Union Republic are defined by the Constitution of the Union Republic.

Art. 62.—The Supreme Soviet of a Union Republic elects a Chairman and Vice-Chairmen to conduct its sittings.

Art. 63.—The Supreme Soviet of a Union Republic appoints the Government of the Union Republic, namely, the Council of Ministers of the Union Republic.

Art. 64.—The highest executive and administrative organ of the state power of the Union of Soviet Socialist Republics is the Council of Ministers of the U.S.S.R.

Art. 65.—The Council of Ministers of the U.S.S.R. is responsible and accountable to the Supreme Soviet of the U.S.S.R., or, in the intervals between sessions of the Supreme Soviet, to the Presidium of the Supreme Soviet of the U.S.S.R.

Art. 66.—The Council of Ministers of the U.S.S.R. issues decisions and orders on the basis and in pursuance of the laws in operation, and verifies their execution.

Art. 67.—Decisions and orders of the Council of Ministers of the U.S.S.R. are binding throughout the territory of the U.S.S.R.

Art. 68.—The Council of Ministers of the U.S.S.R.:

(a) Co-ordinates and directs the work of the all-Union and Union-Republican Ministries of the U.S.S.R. and of other institutions under its jurisdiction, exercises guidance of the Economic Councils of the economic administration areas through the Councils of Ministers of the Union Republics;

(b) Adopts measures to carry out the national-economic plan and the state budget, and to strengthen the credit and monetary system;

(c) Adopts measures for the maintenance of public order, for the protection of the interests of the state, and for the safeguarding of the rights of citizens;

(d) Exercises general guidance in the sphere of relations with foreign states;

(e) Fixes the annual contingent of citizens to be called up for military service and directs the general organization of the Armed Forces of the country;

(f) Sets up, whenever necessary, special Committees and Central Administrations under the Council of Ministers of the U.S.S.R. for economic and cultural affairs and defence.

Art. 69.—The Council of Ministers of the U.S.S.R. has the right, in respect of those branches of administration and economy which come within the jurisdiction of the U.S.S.R., to suspend decisions and orders of the Councils of Ministers

of the Union Republics and of the Economic Councils of the economic administration areas and to annul orders and instructions of Ministers of the U.S.S.R.

Art. 70.—The Council of Ministers of the U.S.S.R. is appointed by the Supreme Soviet of the U.S.S.R. and consists of:

The Chairman of the Council of Ministers of the U.S.S.R.;
The First Vice-Chairmen of the Council of Ministers of the U.S.S.R.;
The Vice-Chairmen of the Council of Ministers of the U.S.S.R.;
The Ministers of the U.S.S.R.;
The Chairman of the State Planning Committee of the Council of Ministers of the U.S.S.R.;
The Chairman of the Commission of Soviet Control of the Council of Ministers of the U.S.S.R.;
The Chairman of the State Labour and Wages Committee of the Council of Ministers of the U.S.S.R.;
The Chairman of the State Committee of the Council of Ministers of the U.S.S.R. on Professional and Technical Training;
The Chairman of the State Scientific and Technical Committee of the Council of Ministers of the U.S.S.R.
The Chairman of the State Committee of the Council of Ministers of the U.S.S.R. on Automation and Machine-Building;
The Chairman of the State Committee of the Council of Ministers of the U.S.S.R. on Aircraft Technique;
The Chairman of the State Committee of the Council of Ministers of the U.S.S.R. on Defence Technique;
The Chairman of the State Committee of the Council of Ministers of the U.S.S.R. on Radio-electronics;
The Chairman of the State Committee of the Council of Ministers of the U.S.S.R. on Shipbuilding;
The Chairman of the State Committee of the Council of Ministers of the U.S.S.R. on Chemistry;
The Chairman of the State Committee of the Council of Ministers of the U.S.S.R. on Construction;
The Chairman of the State Grain and Cereals Committee of the Council of Ministers of the U.S.S.R.;
The Chairman of the State Committee of the Council of Ministers of the U.S.S.R. on Foreign Economic Relations;
The Chairman of the State Security Committee under the Council of Ministers of the U.S.S.R.
The Chairman of the Administrative Board of the State Bank of the U.S.S.R.;
The Chief of the Central Statistical Board under the Council of Ministers of the U.S.S.R.;
The Chairman of the State Council of Economic Research of the Council of Ministers of the U.S.S.R.;
The Council of Ministers of the U.S.S.R. includes the Chairmen of the Councils of Ministers of the Union Republics by virtue of their office.

Art. 71. The Government of the U.S.S.R. or a Minister of the U.S.S.R. to whom a question of a member of the Supreme Soviet of the U.S.S.R. is addressed must give a verbal or written reply in the respective Chamber within a period not exceeding three days.

Art. 72. The Ministers of the U.S.S.R. direct the branches of state administration which come within the jurisdiction of the U.S.S.R.

Art. 73. The Ministers of the U.S.S.R., within the limits of the jurisdiction of their respective Ministers, issue orders and instructions on the basis and in pursuance of the laws in operation, and also of decisions and orders of the Council of Ministers of the U.S.S.R., and verify their execution.

Art. 74. The Ministries of the U.S.S.R. are either all-Union or Union-Republican Ministries.

Art. 75. Each all-Union Ministry directs the branch of state administration entrusted to it throughout the territory of the U.S.S.R. either directly or through bodies appointed by it.

Art. 76. The Union-Republican Ministries, as a rule, direct the branches of state administration entrusted to them through corresponding Ministries of the Union Republics; they administer directly only a definite and limited number of enterprises according to a list confirmed by the Presidium of the Supreme Soviet of the U.S.S.R.

Art. 77. The following Ministries are all-Union Ministries:

The Ministry of Foreign Trade;
The Ministry of Merchant Marine;
The Ministry of Railways;
The Ministry of the Medium Machine-Building Industry;
The Ministry for the Construction of Electric Power Stations;
The Ministry of Transport Construction.

Art. 78. The following Ministries are Union-Republican Ministries:
The Ministry of Internal Affairs;
The Ministry of Higher and Secondary Specialized Education;
The Ministry of Geological Survey and Conservation of Mineral Resources;
The Ministry of Public Health;
The Ministry of Foreign Affairs;
The Ministry of Culture;
The Ministry of Defence;
The Ministry of Communications;
The Ministry of Agriculture;
The Ministry of Finance.

Art. 79. The highest executive and administrative organ of the state power of a Union Republic is the Council of Ministers of the Union Republic.

Art. 80. The Council of Ministers of a Union Republic is responsible and accountable to the Supreme Soviet of the Union Republic, or, in the intervals between sessions of the Supreme Soviet of the Union Republic, to the Presidium of the Supreme Soviet of the Union Republic.

Art. 81. The Council of Ministers of a Union Republic issues decisions and orders on the basis and in pursuance of the laws of the U.S.S.R. and of the Union Republic in operation, and of the decisions and orders of the Council of Ministers of the U.S.S.R., and verifies their execution.

Art. 82. The Council of Ministers of a Union Republic has the right to suspend decisions and orders of the Councils of Ministers of its Autonomous Republics, and to annul decisions and orders of the Executive Committees of the Soviets of Working People's Deputies of its Territories, Regions and Autonomous Regions, as well as decisions and orders of the Economic Councils of the economic administration areas.

Art. 83. The Council of Ministers of a Union Republic is appointed by the Supreme Soviet of the Union Republic and consists of:

The Chairman of the Council of Ministers of the Union Republic;
The Vice-Chairmen of the Council of Ministers;
The Ministers;

The Chairmen of State Committees, Commissions, and the heads of other offices of the Council of Ministers set up by the Supreme Soviet of the Union Republic in conformity with the Constitution of the Union Republic.

Art. 84. The Ministers of a Union Republic direct the branches of state administration which come within the jurisdiction of the Union Republic.

Art. 85. The Ministers of a Union Republic, within the limits of the jurisdiction of their respective Ministries, issue orders and instructions on the basis and in pursuance of the laws of the U.S.S.R. and of the Union Republic, of the decisions and orders of the Council of Ministers of the U.S.S.R. and the Council

of Ministers of the Union Republic, and of the orders and instructions of the Union-Republican Ministries of the U.S.S.R.

Art. 86. The Ministries of a Union Republic are either Union-Republican or Republican Ministries.

Art. 87. Each Union-Republican Ministry directs the branch of state administration entrusted to it, and is subordinate both to the Council of Ministers of the Union Republic and to the corresponding Union-Republican Ministry of the U.S.S.R.

Art. 88. Each Republican Ministry directs the branch of state administration entrusted to it and is directly subordinate to the Council of Ministers of the Union Republic.

Art. 88A. The Economic Councils of the economic administration areas direct the branches of economic activity entrusted to them, and are directly subordinate to the Council of Ministers of the Union Republic.

The Economic Councils of the economic administration areas issue within their jurisdiction decisions and orders on the basis and in pursuance of the laws of the U.S.S.R. and the Union Republic and decisions and orders of the Council of Ministers of the U.S.S.R. and the Council of Ministers of the Union Republic.

Art. 89. The highest organ of state power in an Autonomous Republic is the Supreme Soviet of the Autonomous Republic.

Art. 90. The Supreme Soviet of an Autonomous Republic is elected by the citizens of the Republic for a term of four years on a basis of representation established by the Constitution of the Autonomous Republic.

Art. 91. The Supreme Soviet of an Autonomous Republic is the sole legislative organ of the Autonomous Republic.

Art. 92. Each Autonomous Republic has its own Constitution, which takes account of the specific features of the Autonomous Republic and is drawn up in full conformity with the Constitution of the Union Republic.

Art. 93. The Supreme Soviet of an Autonomous Republic elects the Presidium of the Supreme Soviet of the Autonomous Republic and appoints the Council of Ministers of the Autonomous Republic, in accordance with its Constitution.

Art. 94.—The organs of state power in Territories, Regions, Autonomous Regions, Areas, Districts, cities and rural localities (stanitsas, villages, hamlets, kishlaks, auls) are the Soviets of Working People's Deputies.

Art. 95.—The Soviets of Working People's Deputies of Territories, Regions, Autonomous Regions, Areas, Districts, cities and rural localities (stanitsas, villages, hamlets, kishlaks, auls) are elected by the working people of the respective Territories, Regions, Autonomous Regions, Areas, Districts, cities and rural localities for a term of two years.

Art. 96.—The basis of representation for Soviets of Working People's Deputies is determined by the Constitutions of the Union Republics.

Art. 97.—The Soviets of Working People's Deputies direct the work of the organs of administration subordinate to them, ensure the maintenance of public order, the observance of the laws and the protection of the rights of citizens, direct local economic and cultural affairs and draw up the local budgets.

Art. 98.—The Soviets of Working People's Deputies adopt decisions and issue orders within the limits of the powers vested in them by the laws of the U.S.S.R. and of the Union Republic.

Art. 99.—The executive and administrative organ of the Soviet of Working People's Deputies of a Territory, Region, Autonomous Region, Area, District, city or rural locality is the Executive Committee elected by it, consisting of a Chairman, Vice-Chairmen, a Secretary and members.

Art. 100.—The executive and administrative organ of the Soviet of Working People's Deputies in a small locality, in accordance with the Constitution of the Union Republic, is the Chairman, the Vice-Chairman and the Secretary elected by the Soviet of Working People's Deputies.

Art. 101.—The executive organs of the Soviets of Working People's Deputies are directly accountable both to the Soviets of Working People's Deputies which

elected them and to the executive organ of the superior Soviet of Working People's Deputies.

Art. 102.—In the U.S.S.R. justice is administered by the Supreme Court of the U.S.S.R., the Supreme Courts of the Union Republics, the Courts of the Territories, Regions, Autonomous Republics, Autonomous Regions and Areas, the Special Courts of the U.S.S.R. established by decision of the Supreme Soviet of the U.S.S.R., and the People's Courts.

Art. 103.—In all Courts cases are tried with the participation of people's assessors, except where specially provided for by law.

Art. 104.—The Supreme Court of the U.S.S.R. is the highest judicial organ. The Supreme Court of the U.S.S.R. is charged with the supervision of the judicial activities of the judicial organs of the U.S.S.R. and of the Union Republics within the limits established by law.

Art. 105.—The Supreme Court of the U.S.S.R. is elected by the Supreme Soviet of the U.S.S.R. for a term of five years.

The Supreme Court of the U.S.S.R. includes the Chairmen of the Supreme Courts of the Union Republics by virtue of their office.

Art. 106.—The Supreme Courts of the Union Republics are elected by the Supreme Soviets of the Union Republics for a term of five years.

Art. 107.—The Supreme Courts of the Autonomous Republics are elected by the Supreme Soviets of the Autonomous Republics for a term of five years.

Art. 108.—The Courts of Territories, Regions, Autonomous Regions and Areas are elected by the Soviets of Working People's Deputies of the respective Territories, Regions, Autonomous Regions or Areas for a term of five years.

Art. 109.—People's judges of District (City) People's Courts are elected by the citizens of the districts (cities) on the basis of universal, direct and equal suffrage by secret ballot for a term of five years.

People's assessors of District (City) People's Courts are elected at general meetings of industrial, office, and professional workers, and peasants in the place of their work or residence, and of servicemen in military units, for a term of two years.

Art. 110.—Judicial proceedings are conducted in the language of the Union Republic, Autonomous Republic or Autonomous Region, persons not knowing this language being guaranteed the opportunity of fully acquainting themselves with the material of the case through an interpreter and likewise the right to use their own language in court.

Art. 111.—In all Courts of the U.S.S.R. cases are heard in public, unless otherwise provided for by law, and the accused is guaranteed the right to defence.

Art. 112.—Judges are independent and subject only to the law.

Art. 113.—Supreme supervisory power to ensure the strict observance of the law by all Ministries and institutions subordinated to them, as well as by officials and citizens of the U.S.S.R. generally, is vested in the Procurator-General of the U.S.S.R.

Art. 114.—The Procurator-General of the U.S.S.R. is appointed by the Supreme Soviet of the U.S.S.R. for a term of seven years.

Art. 115.—Procurators of Republics, Territories, Regions, Autonomous Republics and Autonomous Regions are appointed by the Procurator-General of the U.S.S.R. for a term of five years.

Art. 116.—Area, district and city procurators are appointed by the Procurators of the Union Republics, subject to the approval of the Procurator-General of the U.S.S.R., for a term of five years.

Art. 117.—The organs of the Procurator's Office perform their functions independently of any local organs whatsoever, being sub-ordinate solely to the Procurator-General of the U.S.S.R.

Art. 118.—Citizens of the U.S.S.R. have the right to work, that is, the right to guaranteed employment and payment for their work in accordance with its quantity and quality.

The right to work is ensured by the socialist organization of the national economy, the steady growth of the productive forces of Soviet society, the elimination of the possibility of economic crises, and the abolition of unemployment.

Art. 119.—Citizens of the U.S.S.R. have the right to rest and leisure.

The right to rest and leisure is ensured by the establishment of an eight-hour day for industrial, office, and professional workers, the reduction of the working day to seven or six hours for arduous trades and to four hours in shops where conditions of work are particularly arduous: by the institution of annual vacations with full pay for industrial, office, and professional workers, and by the provision of a wide network of sanatoriums, holiday homes and clubs for the accommodation of the working people.

Art. 120.—Citizens of the U.S.S.R. have the right to maintenance in old age and also in case of sickness or disability.

This right is ensured by the extensive development of social insurance of industrial, office, and professional workers at state expense, free medical service for the working people, and the provision of a wide network of health resorts for the use of the working people.

Art. 121.—Citizens of the U.S.S.R. have the right to education.

This right is ensured by universal compulsory eight-year education; by extensive development of secondary general polytechnical education, vocational-technical education, and secondary specialized and higher education based on close links between school, and life and production; by utmost development of evening and extra-mural education; by free education in all schools; by a system of state grants; by instruction in schools being conducted in the native language, and by the organization in the factories, state farms and collective farms of free vocational, technical and agronomic training for the working people.

Art. 122.—Women in the U.S.S.R. are accorded equal rights with men in all spheres of economic, government, cultural, political and other public activity.

The possibility of exercising these rights is ensured by women being accorded an equal right with men to work, payment for work, rest and leisure, social insurance and education, and by state protection of the interests of mother and child, state aid to mothers of large families and unmarried mothers, maternity leave with full pay, and the provision of a wide network of maternity homes, nurseries and kindergartens.

Art. 123. Equality of rights of citizens of the U.S.S.R., irrespective of their nationality or race, in all spheres of economic, government, cultural, political and other public activity, is an indefeasible law.

Any direct or indirect restriction of the rights of, or, conversely, the establishment of any direct or indirect privileges for, citizens on account of their race or nationality, as well as any advocacy of racial or national exclusiveness or hatred and contempt, are punishable by law.

Art. 124.—In order to ensure to citizens freedom of conscience, the church in the U.S.S.R. is separated from the state, and the school from the church. Freedom of religious worship and freedom of anti-religious propaganda is recognized for all citizens.

Art. 125.—In conformity with the interests of the working people, and in order to strengthen the socialist system, the citizens of the U.S.S.R. are guaranteed by law:

(a) freedom of speech;
(b) freedom of the press;
(c) freedom of assembly, including the holding of mass meetings;
(d) freedom of street processions and demonstrations.

These civil rights are ensured by placing at the disposal of the working people and their organizations printing presses, stocks of paper, public buildings, the streets, communications facilities and other material requisites for the exercise of these rights.

Art. 126.—In conformity with the interests of the working people, and in order to develop the organizational initiative and political activity of the masses of the people, citizens of the U.S.S.R. are guaranteed the right to unite in public organizations: trade unions, co-operative societies, youth organizations, sport and defence organizations, cultural, technical and scientific societies; and the most active and politically-conscious citizens in the ranks of the working class, working peasants and working intelligentsia voluntarily unite in the Communist Party of the Soviet Union, which is the vanguard of the working people in their struggle to build communist society and is the leading core of all organizations of the working people, both public and state.

Art. 127.—Citizens of the U.S.S.R. are guaranteed inviolability of the person. No person may be placed under arrest except by decision of a court or with the sanction of a procurator.

Art. 128.—The inviolability of the homes of citizens and privacy of correspondence are protected by law.

Art. 129.—The U.S.S.R. affords the right of asylum to foreign citizens persecuted for defending the interests of the working people, or for scientific activities, or for struggling for national liberation.

Art. 130.—It is the duty of every citizen of the U.S.S.R. to abide by the Constitution of the Union of Soviet Socialist Republics, to observe the laws, to maintain labour discipline, honestly to perform public duties, and to respect the rules of socialist intercourse.

Art. 131.—It is the duty of every citizen of the U.S.S.R. to safeguard and fortify public, socialist property as the sacred and inviolable foundation of the Soviet system, as the source of the wealth and might of the country, as the source of the prosperity and culture of all the working people.

Persons committing offences against public, socialist property are enemies of the people.

Art. 132.—Universal military service is law.

Military service in the Armed Forces of the U.S.S.R. is an honourable duty of the citizens of the U.S.S.R.

Art. 133.—To defend the country is the sacred duty of every citizen of the U.S.S.R. Treason to the Motherland—violation of the oath of allegiance, desertion to the enemy, impairing the military power of the state, espionage—is punishable with all the severity of the law as the most heinous of crimes.

Art. 134.—Members of all Soviets of Working People's Deputies—of the Supreme Soviet of the U.S.S.R., the Supreme Soviets of the Union Republics, the Soviets of Working People's Deputies of the Territories and Regions, the Supreme Soviets of the Autonomous Republics, the Soviets of Working People's Deputies of the Autonomous Regions, and the Area, District, city and rural (stanitsa, village, hamlet, kishlak, aul) Soviets of Working People's Deputies—are chosen by the electors on the basis of universal, equal and direct suffrage by secret ballot.

Art. 135.—Elections of deputies are universal: all citizens of the U.S.S.R. who have reached the age of eighteen, irrespective of race or nationality, sex, religion, education, domicile, social origin, property status or past activities, have the right to vote in the election of deputies, with the exception of persons who have been legally certified as insane.

Every citizen of the U.S.S.R. who has reached the age of twenty-three is eligible for election to the Supreme Soviet of the U.S.S.R., irrespective of race or nationality, sex, religion, education, domicile, social origin, property status or past activities.

Art. 136.—Elections of deputies are equal: each citizen has one vote; all citizens participate in elections on an equal footing.

Art. 137.—Women have the right to elect and be elected on equal terms with men.

Art. 138.—Citizens serving in the Armed Forces of the U.S.S.R. have the right to elect and be elected on equal terms with all other citizens.

Art. 139.—Elections of deputies are direct: all Soviets of Working People's Deputies, from rural and city Soviets of Working People's Deputies to the Supreme Soviet of the U.S.S.R., are elected by the citizens by direct vote.

Art. 140.—Voting at elections of deputies is secret.

Art. 141.—Candidates are nominated by election districts.

The right to nominate candidates is secured to public organizations and societies of the working people: Communist Party organizations, trade unions, cooperatives, youth organizations and cultural societies.

Art. 142.—It is the duty of every deputy to report to his electors on his work and on the work of his Soviet of Working People's Deputies, and he may be recalled at any time upon decision of a majority of the electors in the manner established by law.

Art. 143.—The arms of the Union of Soviet Socialist Republics are a sickle and hammer against a globe depicted in the rays of the sun and surrounded by ears of grain, with the inscription "Workers of All Countries, Unite!" in the languages of the Union Republics. At the top of the arms is a five-pointed star.

Art. 144.—The state flag of the Union of Soviet Socialist Republics is of red cloth with the sickle and hammer depicted in gold in the upper corner near the staff and above them a five-pointed red star bordered in gold. The ratio of the width to the length is 1:2.

Art. 145.—The Capital of the Union of Soviet Socialist Republics is the City of Moscow.

Art. 146.—The Constitution of the U.S.S.R. may be amended only by decision of the Supreme Soviet of the U.S.S.R. adopted by a majority of not less than two-thirds of the votes in each of its Chambers.

CHAPTER VI

CONSTITUTION
OF
EIRE (1937).[1]

In the name of the Most Holy Trinity, from Whom is all authority and to Whom, as our final end, all actions both of men and States must be referred.

We, the people of Eire,

Humbly acknowledging all our obligations to our Divine Lord, Jesus Christ, Who sustained our fathers through centuries of trial,

Gratefully remembering their heroic and unremitting struggle to regain the rightful independence of our nation,

And seeking to promote the common good, with due observance of prudence, justice and charity, so that the dignity and freedom of the individual may be assured true social order attained, the unity of our country restored, and concord established with other nations.

Do hereby adopt, enact, and give to ourselves this Constitution.

THE NATION

1. The Irish nation hereby affirms its inalienable, indefeasible, and sovereign right to choose its own form of Government, to determine its relations with other nations, and to develop its life, political, economic and cultural, in accordance with its own genius and traditions.

2. The national territory consists of the whole island of Ireland, its islands and the territorial seas.

3. Pending the re-integration of the national territory, and without prejudice to the right of the Parliament and Government established by this Constitution to exercise jurisdiction over the whole of that territory, the laws enacted by that Parliament shall have the like area and extent of application as the laws of Saorstát Eireann and the like extraterritorial effect.

THE STATE

4. The name of the State is "Eire," or, in the English language, "Ireland."

5. Ireland is a sovereign, independent, democratic State.

6. (1) All powers of government, legislative, executive and judicial, derive, under God, from the people, whose right it is to designate the rulers of the State and, in final appeals, to decide all questions of national policy, according to the requirements of the common good.

(2) These powers of government are exercisable only by or on the authority of the organs of State established by this constitution.

7. The national flag is the tricolour of green, white and orange.

8. (1) The Irish language as the national language is the first official language.

(2) The English language is recognised as a second official language.

(3) Provision may, however, be made by law for the exclusive use of either of the said languages for any one or more official purposes, either throughout the State or in any part thereof.

9. (1) (*a*) On the coming into operation of this constitution any person who was a citizen of Saorstát Eireann immediately before the coming into operation of this Constitution shall become and be a citizen of Ireland.

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[1] Effective December 29, 1937.

(*b*) The future acquisition and loss of Irish nationality and citizenship shall be determined in accordance with law.

(*c*) No person may be excluded from Irish nationality and citizenship by reason of the sex of such person.

(2) Fidelity to the nation and loyalty to the State are fundamental political duties of all citizens.

10. (1) All natural resources, including the air and all forms of potential energy within the jurisdiction of the Parliament and Government established by this constitution and all royalties and franchises within that jurisdiction belong to the State, subject to all estates and interests therein for the time being lawfully vested in any person or body.

(2) All land and all mines, minerals and waters which belonged to Saorstát Eireann immediately before the coming into operation of this constitution belong to the State to the same extent as they then belonged to Saorstát Eireann.

(3) Provision may be made by law for the management of the property which belongs to the State by virtue of this article and for the control of the alienation, whether temporary or permanent, of that property.

(4) Provision may also be made by law for the management of land, mines, minerals and waters acquired by the State after the coming into operation of this constitution and for the control of the alienation, whether temporary or permanent, of the land, mines, minerals and waters so acquired.

11. All revenues of the State from whatever source arising shall, subject to such exception as may be provided by law, form one fund, and shall be appropriated for the purposes and in the manner and subject to the charges and liabilities determined and imposed by law.

THE PRESIDENT

12. (1) There shall be a President of Ireland (*Uachtarán nah Eireann*) hereinafter called "the President," who shall take precedence over all other persons in the State and who shall exercise and perform the powers and functions conferred on the President by this constitution and by law.

(2) (*a*) The President shall be elected by direct vote of the people.

(*b*) Every citizen who has the right to vote at an election for members of Dáil Eireann shall have the right to vote at an election for President.

(*c*) The voting shall be by secret ballot and on the system of proportional representation by means of the single transferable vote.

(3) (*a*) The President shall hold office for 7 years from the date upon which he enters upon his office, unless before the expiration of that period he dies, or resigns, or is removed from office, or becomes permanently incapacitated, such incapacity being established to the satisfaction of the Supreme Court consisting of not less than five judges.

(*b*) A person who holds, or who has held, office as President, shall be eligible for re-election to that office once, but only once.

(*c*) An election for the office of President shall be held not later than, and not earlier than the 60th day before, the date of the expiration of the term of office of every President, but in the event of the removal from office of the President or of his death, resignation, or permanent incapacity established as aforesaid, an election for the office of President shall be held within 60 days after such event.

(4) (*a*) Every citizen who has reached his 35th year of age is eligible for election to the office of President.

(*b*) Every candidate for election, not a former or retiring President, must be nominated either by—

(*i*) not less than twenty persons, each of whom is at the time a member of one of the Houses of the Oireachtas; or

(*ii*) by the Councils of not less than four administrative counties (including county boroughs) as defined by law.

(*c*) No person and no such Council shall be entitled to subscribe to the nomination of more than one candidate in respect of the same election.

(*d*) Former or retiring Presidents may become candidates on their own nomination.

(*e*) Where only one candidate is nominated for the office of President it shall not be necessary to proceed to a ballot for his election.

(5) Subject to the provisions of this article, elections for the office of President shall be regulated by law.

(6) (*a*) The President shall not be a member of either House of the Oireachtas.

(*b*) If a member of either House of the Oireachtas be elected President he shall be deemed to have vacated his seat in that House.

(*c*) The President shall not hold any other office or position of emolument.

(7) The first President shall enter upon his office as soon as may be after his election, and every subsequent President shall enter upon his office on the day following the expiration of the term of office of his predecessor or as soon as may be thereafter or, in the event of his predecessor's removal from office, death, resignation or permanent incapacity established as provided by section (3) hereof, as soon as may be after the election.

(8) The President shall enter upon his office by taking and subscribing publicly, in the presence of members of both Houses of the Oireachtas, of judges of the Supreme Court and of the High Court, and other public personages, the following declaration:—

"In the presence of Almighty God I. . . . . do solemnly and sincerely promise and declare that I will maintain the constitution of Ireland and uphold its laws, that I will fulfil my duties faithfully and conscientiously in accordance with the constitution and the law, and that I will dedicate my abilities to the service and welfare of the people of Ireland. May God direct and sustain me."

(9) The President shall not leave the State during his term of office save with the consent of the Government.

(10) (*a*) The President may be impeached for stated misbehaviour.

(*b*) The charge shall be preferred by either of the Houses of the Oireachtas, subject to and in accordance with the provisions of this section.

(*c*) A proposal to either House of the Oireachtas to prefer a charge against the President under this section shall not be entertained unless upon a notice of motion in writing signed by not less than thirty members of that House.

(*d*) No such proposal shall be adopted by either of the Houses of the Oireachtas save upon a resolution of that House supported by not less than two-thirds of the total membership thereof.

(*e*) When a charge has been preferred by either House of the Oireachtas, the other House shall investigate the charge, or cause the charge to be investigated.

(*f*) The President shall have the right to appear and to be represented at the investigation of the charge.

(*g*) If, as a result of the investigation, a resolution be passed supported by not less than two-thirds of the total membership of the House of the Oireachtas by which the charge was investigated or caused to be investigated, declaring that the charge preferred against the President has been sustained and that the misbehaviour, the subject of the charge, was such as to render him unfit to continue in office, such resolution shall operate to remove the President from his office.

(11) (*a*) The President shall have an official residence in or near the city of Dublin.

(*b*) The President shall receive such emoluments and allowances as may be determined by law.

(*c*) The emoluments and allowances of the President shall not be diminished during his term of office.

13. (1) (*a*) The President shall, on the nomination of Dáil Eireann, appoint the Taoiseach, that is, the head of the Government or Prime Minister.

(*b*) The President shall, on the nomination of the Taoiseach with the previous approval of Dáil Eireann, appoint the other members of the Government.

(*c*) The President shall, on the advice of the Taoiseach, accept the resignation or terminate the appointment of any member of the Government.

(2) (*a*) Dáil Eireann shall be summoned and dissolved by the President on the advice of the Taoiseach.

(*b*) The President may in his absolute discretion refuse to dissolve Dáil Eireann on the advice of a Taoiseach who has ceased to retain the support of a majority in Dáil Eireann.

(*c*) The President may at any time, after consultation with Council of State, convene a meeting of either or both of the Houses of the Oireachtas.

(3) (*a*) Every bill passed or deemed to have been passed by both Houses of the Oireachtas shall require the signature of the President for its enactment into law.

(*b*) The President shall promulgate every law made by the Oireachtas.

(4) The supreme command of the defence forces is hereby vested in the President.

(5) (*a*) The exercise of the supreme command of the defence forces shall be regulated by law.

(*b*) All commissioned officers of the defence forces shall hold their commissions from the President.

(6) The right of pardon and the power to commute or remit punishment imposed by any court exercising criminal jurisdiction are hereby vested in the President, but such power of commutation or remission may, except in capital cases, also be conferred by law on other authorities.

(7) (*a*) The President may, after consultation with the Council of State communicate with the Houses of the Oireachtas by message or address on any matter of national or public importance.

(*b*) The President may, after consultation with the Council of State address a message to the nation at any time on any such matter.

(*c*) Every such message or address must, however, have received the approval of the Government.

(8) (*a*) The President shall not be answerable to either House of the Oireachtas or to any court for the exercise and performance of the power and functions of his office or for any act done or purporting to be done by him in the exercise and performance of these powers and functions.

(*b*) The behaviour of the President may, however, be brought under review in either of the Houses of the Oireachtas for the purposes of section (10) of article 12 of this constitution, or by any court, tribunal or body appointed or designated by either of the Houses of the Oireachtas for the investigation of a charge under section (10) of the said article.

(9) The powers and functions conferred on the President by this constitution shall be exercisable and performable by him only on the advice of the Government, save where it is provided by this constitution that he shall act in his absolute discretion or after consultation with or in relation to the Council of State, or on the advice or nomination of, or on receipt of any other communication from, any other person or body.

(10) Subject to this constitution, additional powers and functions may be conferred on the President by law.

(11) No power or function conferred on the President by law shall be exercisable or performable by him save only on the advice of the Government.

14. (1) In the event of the absence of the President, or his temporary incapacity, or his permanent incapacity established as provided by section (3) of article 12 hereof, or in the event of his death, resignation, removal from office,

or failure to exercise and perform the powers and functions of his office or any of them, or at any time at which the office of President may be vacant, the powers and functions conferred on the President by this constitution shall be exercised and performed by a Commission constituted as provided in section (2) of this article.

(2) (*a*) The Commission shall consist of the following persons, namely, the Chief Justice, the Chairman of Dáil Eireann (*Ann Ceann Comhairle*), and the Chairman of Seanad Eireann.

(*b*) The president of the High Court shall act as a member of the Commission in the place of the Chief Justice on any occasion on which the office of Chief Justice is vacant or on which the Chief Justice is unable to act.

(*c*) The Deputy Chairman of Dáil Eireann shall act as a member of the Commission in the place of the Chairman of Dáil Eireann on any occasion on which the office of Chairman of Dáil Eireann is vacant or on which the said Chairman is unable to act.

(*d*) The Deputy Chairman of Seanad Eireann shall act as a member of the Commission in the place of the Chairman of Seanad Eireann on any occasion on which the office of Chairman of Seanad Eireann is vacant or on which the said Chairman is unable to act.

(3) The Commission may act by any two of their number and may act notwithstanding a vacancy in their membership.

(4) The Council of State may by a majority of its members make such provision as to them may seem meet for the exercise and performance of the powers and functions conferred on the President by this constitution in any contingency which is not provided for by the foregoing provision of this article.

(5) (*a*) The provisions of this constitution which relate to the exercise and performance by the President of the powers and functions conferred on him by this constitution shall subject to the subsequent provision of this section apply to the exercise and performance of the said powers and functions under this article.

(*b*) In the event of the failure of the President to exercise or perform any power or function which the President is by this constitution required to exercise or perform within a specified time, the said power or function shall be exercised or performed under this article, as soon as may be after the expiration of the time so specified.

THE NATIONAL PARLIAMENT

Constitution and Powers

15. (1) (*a*) The National Parliament shall be called and known, and is in this constitution generally referred to, as "the Oireachtas."

(*b*) The Oireachtas shall consist of the President and two Houses, *viz.*: a House of Representatives to be called "Dáil Eireann" and a Senate to be called "Seanad Eireann."

(*c*) The Houses of the Oireachtas shall sit in or near the city of Dublin or in such other place as they may from time to time determine.

(2) (*a*) The sole and exclusive power of making laws for the State is hereby vested in the Oireachtas; no other legislative authority has power to make laws for the State.

(*b*) Provision may however be made by law for the creation or recognition of subordinate Legislatures and for the powers and functions of these Legislatures.

(3) (*a*) The Oireachtas may provide for the establishment or recognition of functional or vocational councils representing branches of the social and economic life of the people.

(*b*) A law establishing or recognising any such council shall determine its rights, powers and duties, and its relation to the Oireachtas and to the Government.

(4) (*a*) The Oireachtas shall not enact any law which is in any respect repugnant to this constitution or any provision thereof.

(*b*) Every law enacted by the Oireachtas which is in any respect repugnant to this constitution or to any provision thereof shall, but to the extent only of such repugnancy, be invalid.

(5) The Oireachtas shall not declare acts to be infringements of the law which were not so at the date of their commission.

(6) (*a*) The right to raise and maintain military or armed forces is vested exclusively in the Oireachtas.

(*b*) No military or armed force, other than a military or armed force raised and maintained by the Oireachtas, shall be raised or maintained for any purpose whatsoever.

(7) The Oireachtas shall hold at least one session every year.

(8) (*a*) Sittings of each House of the Oireachtas shall be public.

(*b*) In cases of special emergency, however, either House may hold a private sitting with the assent of two-thirds of the members present.

(9) (*a*) Each House of the Oireachtas shall elect from its members its own Chairman and Deputy Chairman, and shall prescribe their powers and duties.

(*b*) The remuneration of the Chairman and Deputy Chairman of each House shall be determined by law.

(10) Each House shall make its own rules and standing orders, with power to attach penalties for their infringement, and shall have power to ensure freedom of debate, to protect its official documents and the private papers of its members, and to protect itself and its members against any person or persons interfering with, molesting or attempting to corrupt its members in the exercise of their duties.

(11) (*a*) All questions in each House shall, save as otherwise provided by this Constitution, be determined by a majority of the votes of the members present and voting other than the Chairman or presiding member.

(*b*) The Chairman or presiding member shall have and exercise a casting vote in the case of an equality of votes.

(*c*) The number of members necessary to constitute a meeting of either House for the exercise of its powers shall be determined by its standing orders.

(12) All official reports and publications of the Oireachtas or of either House thereof and utterances made in either House wherever published shall be privileged.

(13) The members of each House of the Oireachtas shall, except in case of treason as defined in this Constitution, felony or breach of the peace, be privileged from arrest in going to and returning from, and while within the precincts of, either House, and shall not, in respect of any utterance in either House, be amenable to any court or any authority other than the House itself.

(14) No person may be at the same time a member of both Houses of the Oireachtas, and, if any person who is already a member of either House becomes a member of the other House, he shall forthwith be deemed to have vacated his first seat.

(15) The Oireachtas may make provision by law for the payment of allowances to the members of each House thereof in respect of their duties as public representatives and for the grant to them of free travelling and such other facilities (if any) in connection with those duties as the Oireachtas may determine.

Dáil Eireann

16. (1) (*a*) Every citizen without distinction of sex who has reached the age of 21 years, and who is not placed under disability or incapacity by this constitution or by law, shall be eligible for membership of Dáil Eireann.

(*b*) Every citizen without distinction of sex who has reached the age of 21 years, who is not disqualified by law and complies with the provisions of the law relating to the election of members of Dáil Eireann, shall have the right to vote at an election for members of Dáil Eireann.

(*c*) No law shall be enacted placing any citizen under disability or incapacity for membership of Dáil Eireann on the ground of sex or disqualifying any citizen from voting at an election for members of Dáil Eireann on that ground.

(*d*) No voter may exercise more than one vote at an election for Dáil Eireann, and the voting shall be by secret ballot.

(2) (*a*) Dáil Eireann shall be composed of members who represent constituencies determined by law.

(*b*) The number of members shall from time to time be fixed by law, but the total number of members of Dáil Eireann shall not be fixed at less than one member for each 30,000 of the population, or at more than one member for each 20,000 of the population.

(*c*) The ratio between the number of members to be elected at any time for each constituency and the population of each constituency, as ascertained at the last preceding census, shall, so far as it is practicable, be the same throughout the country.

(*d*) The Oireachtas shall revise the constituencies at least once in every 12 years, with due regard to changes in distribution of the population, but any alterations in the constituencies shall not take effect during the life of Dáil Eireann sitting when such revision is made.

(*e*) The members shall be elected on the system of proportional representation by means of the single transferable vote.

(*f*) No law shall be enacted whereby the number of members to be returned for any constituency shall be less than three.

(3) (*a*) Dáil Eireann shall be summoned and dissolved as provided by section (2) of article 13 of this Constitution.

(*b*) A general election for members of Dáil Eireann shall take place not later than 30 days after a dissolution of Dáil Eireann.

(4) (*a*) Polling at every general election for Dáil Eireann shall as far as practicable take place on the same day throughout the country.

(*b*) Dáil Eireann shall meet within 30 days from that polling day.

(5) The same Dáil Eireann shall not continue for a longer period than 7 years from the date of its first meeting; a shorter period may be fixed by law.

(6) Provision shall be made by law to enable the member of Dáil Eireann who is the Chairman immediately before a dissolution of Dáil Eireann to be deemed without any actual election to be elected a member of Dáil Eireann at the ensuing general election.

(7) Subject to the foregoing provisions of this article, elections for membership of Dáil Eireann, including the filling of casual vacancies, shall be regulated in accordance with law.

17. (1) (*a*) As soon as possible after the presentation to Dáil Eireann under article 28 of this Constitution of the estimates of receipts and the estimates of expenditure of the State for any financial year, Dáil Eireann shall consider such estimates.

(*b*) Save in so far as may be provided by specific enactment in each case, the legislation required to give effect to the financial resolutions of each year shall be enacted within that year.

(2) Dáil Eireann shall not pass any vote or resolution, and no law shall be enacted, for the appropriation of revenue or other public moneys unless the purpose of the appropriation shall have been recommended to Dail, Eireann by a message from the Government signed by the Taoiseach.

Seanad Eireann

18. (1) Seanad Eireann shall be composed of sixty members, of whom eleven shall be nominated members and forty-nine shall be elected members.

(2) A person to be eligible for membership of Seanad Eireann must be eligible to become a member of Dáil Eireann.

(3) The nominated members of Seanad Eireann shall be nominated by the Taoiseach with their prior consent.

(4) The elected members of Seanad Eireann shall be elected as follows:—

(*i*) Three shall be elected by the National University of Ireland.

(*ii*) Three shall be elected by the University of Dublin.

(*iii*) Forty-three shall be elected from panels of candidates constituted as hereinafter provided.

(5) Every election of the elected members of Seanad Eireann shall be held on the system of proportional representation by means of the single transferable vote, and by secret postal ballot.

(6) The members of Seanad Eireann to be elected by the Universities shall be elected on a franchise and in the manner to be provided by law.

(7) (*a*) Before each general election of the members of Seanad Eireann to be elected from panels of candidates, five panels of candidates shall be formed in the manner provided by law containing respectively the names of persons having knowledge and practical experience of the following interests and services, namely:—

(*i*) National language and culture, literature, art, education and such professional interests as may be defined by law for the purpose of this panel.

(*ii*) Agriculture and allied interests and fisheries.

(*iii*) Labour, whether organised or unorganised.

(*iv*) Industry and commerce, including banking, finance, accountancy, engineering and architecture.

(*v*) Public administration and social services, including voluntary social activities

(*b*) Not more than eleven and, subject to the provisions of article 19 hereof, not less than five members of Seanad Eireann shall be elected from any one panel.

(8) A general election for Seanad Eireann shall take place not later than 90 days after a dissolution of Dáil Eireann, and the first meeting of Seanad Eireann after the general election shall take place on a day to be fixed by the President on the advice of the Taoiseach.

(9) Every member of Seanad Eireann shall, unless he previously dies, resigns, or becomes disqualified, continue to hold office until the day before the polling day of the general election for Seanad Eireann next held after his election or nomination.

(10) (*a*) Subject to the foregoing provisions of this article elections of the elected members of Seanad Eireann shall be regulated by law.

(*b*) Casual vacancies in the number of the nominated members of Seanad Eireann shall be filled by nomination by the Taoiseach with the prior consent of persons so nominated.

(*c*) Casual vacancies in the number of the elected members of Seanad Eireann shall be filled in the manner provided by law.

19. Provision may be made by law for the direct election by any functional or vocational group or association or council of so many members of Seanad Eireann as may be fixed by such law in substitution for an equal number of the members to be elected from the corresponding panels of candidates constituted under article 18 of this Constitution.

LEGISLATION

20. (1) Every bill initiated in and passed by Dáil Eireann shall be sent to Seanad Eireann and may, unless it be a money bill, be amended in Seanad Eireann and Dáil Eireann shall consider any such amendments.

(2) (*a*) A bill other than a money bill may be initiated in Seanad Eireann, and if passed by Seanad Eireann, shall be introduced in Dáil Eireann.

(*b*) A bill initiated in Seanad Eireann if amended in Dáil Eireann shall be considered as a bill initiated in Dáil Eireann.

(3) A bill passed by either House and accepted by the other House shall be deemed to have been passed by both Houses.

MONEY BILLS

21. (1) (*a*) Money bills shall be initiated in Dáil Eireann only.

(*b*) Every money bill passed by Dáil Eireann shall be sent to Seanad Eireann for its recommendations.

(2) (*a*) Every money bill sent to Seanad Eireann for its recommendations shall, at the expiration of a period not longer than 21 days after it shall have been sent to Seanad Eireann, be returned to Dáil Eireann, which may accept or reject all or any of the recommendations of Seanad Eireann.

(*b*) If such money bill is not returned by Seanad Eireann to Dáil Eireann within such 21 days or is returned within such 21 days with recommendations which Dáil Eireann does not accept, it shall be deemed to have been passed by both Houses at the expiration of the said 21 days.

22. (1) (*a*) A money bill means a bill which contains only provisions dealing with all or any of the following matters, namely, the imposition, repeal, remission, alteration or regulation of taxation; the imposition for the payment of debt or other financial purposes of charges on public moneys or the variation or repeal of any such charges; supply; the appropriation, receipt, custody, issue or audit of accounts of public money; the raising or guarantee of any loan or the repayment thereof; matters subordinate and incidental to these matters or any of them.

(*b*) In this definition the expressions "taxation", "public money" and "loan" respectively do not include any taxation, money or loan raised by local authorities or bodies for local purposes.

(2) (*a*) The Chairman of Dáil Eireann shall certify any bill which, in his opinion, is a money bill to be a money bill, and his certificate shall, subject to the subsequent provisions of this section, be final and conclusive.

(*b*) Seanad Eireann, by a resolution, passed at a sitting at which not less than thirty members are present, may request the President to refer the question whether the bill is or is not a money bill to a Committee of Privileges.

(*c*) If the President after consultation with the Council of State decides to accede to the request he shall appoint a Committee of Privileges consisting of an equal number of members of Dáil Eireann and of Seanad Eireann and a chairman who shall be a judge of the Supreme Court; these appointments shall be made after consultation with the Council of State. In the case of an equality of votes but not otherwise the chairman shall be entitled to vote.

(*d*) The President shall refer the question to the Committee of Privileges so appointed and the Committee shall report its decision thereon to the President within 21 days after the day on which the bill was sent to Seanad Eireann.

(*e*) The decision of the Committee shall be final and conclusive.

(*f*) If the President after consultation with the Council of State decides not to accede to the request of Seanad Eireann, or if the Committee of Privileges fails to report within the time hereinbefore specified, the certificate of the Chairman of Dáil Eireann shall stand confirmed.

TIME FOR CONSIDERATION OF BILLS

23. (1) This article applies to every bill passed by Dáil Eireann and sent to Seanad Eireann other than a money bill or a bill the time for the consideration of which by Seanad Eireann shall have been abridged under article 24 of this Constitution.

(*a*) Whenever a bill to which this article applies is within the stated period defined in the next following sub-section either rejected by Seanad Eireann or passed by Seanad Eireann with amendments to which Dáil Eireann does not agree or is neither passed (with or without amendment) nor rejected by Seanad Eireann within the stated period, the bill shall, if Dáil Eireann so resolves within 180 days

after the expiration of the stated period, be deemed to have been passed by both Houses of the Oireachtas on the day on which the resolution is passed.

(*b*) The stated period is the period of 90 days commencing on the day on which the bill is first sent by Dáil Eireann to Seanad Eireann or any longer period agreed upon in respect of the bill by both Houses of the Oireachtas.

(2) (*a*) The preceding section of this article shall apply to a bill which is initiated in and passed by Seanad Eireann, amended by Dáil Eireann, and accordingly deemed to have been initiated in Dáil Eireann.

(*b*) For the purpose of this application the stated period shall in relation to such a bill commence on the day on which the bill is first sent to Seanad Eireann after having been amended by Dáil Eireann.

24. (1) If and whenever on the passage by Dáil Eireann of any bill, other than a bill expressed to be a bill containing a proposal to amend the constitution, the Taoiseach certifies by messages in writing addressed to the President and to the Chairman of each House of the Oireachtas that, in the opinion of the Government, the bill is urgent and immediately nesessary for the preservation of the public peace and security, or by reason of the existence of a public emergency, whether domestic or international, the time for the consideration of such bill by Seanad Eireann shall, if Dáil Eireann so resolves and if the President, after consultation with the Council of State, concurs, be abridged to such period as shall be specified in the resolution.

(2) Where a bill the time for the consideration of which by Seanad Eireann has been abridged under this article is within the period specified in the resolution either rejected by Seanad Eireann or passed by Seanad Eireann with amendments or recommendations to which Dáil Eireann does not agree or is neither passed (with or without amendments or recommendations) nor rejected by Seanad Eireann within the period so specified, the bill shall be deemed to have been passed by both Houses of the Oireachtas at the expiration of that period.

(3) When a bill the time for the consideration of which by Seanad Eireann has been abridged under this article becomes law it shall remain in force for a period of 90 days from the date of its enactment and no longer unless, before the expiration of that period, both Houses shall have agreed that such law shall remain in force for a longer period and the longer period so agreed upon shall have been specified in resolutions passed by both Houses.

SIGNING AND PROMULGATION OF LAWS

25. (1) As soon as any bill, other than a bill expressed to be a bill containing a proposal for the amendment of this constitution, shall have been passed or deemed to have been passed by both Houses of the Oireachtas, the Taoiseach shall present it to the President for his signature and for promulgation by him as a law in accordance with the provisions of this article.

(2) (*a*) Save as otherwise provided by this constitution, every bill so presented to the President for his signature and for promulgation by him as a law shall be signed by the President not earlier than 5 and not later than 7 days after the date on which the bill shall have been presented to him.

(*b*) At the request of the Government, with the prior concurrence of Seanad Eireann, the President may sign any bill the subject of such request on a date which is earlier than 5 days after such date as aforesaid.

(3) Every bill the time for the consideration of which by Seanad Eireann shall have been abridged under article 24 of this constitution shall be signed by the President on the day on which such bill is presented to him for signature and promulgation as a law.

(4) (*a*) Every bill signed by the President under this constitution shall become and be law as on and from the day on which the bill shall have been so signed.

(*b*) Every bill signed by the President shall come into operation on the day on which it is so signed unless the contrary intention appears.

(*c*) Every bill so signed shall be promulgated by the President as a law by the publication by his direction of a notice in the *Iris Oifigiúil* stating that such bill has become law.

(*d*) As soon as may be after the President has signed any bill and promulgated it as a law, the signed text shall be enrolled for record in the office of the Registrar of the Supreme Court and such signed text shall be conclusive evidence as to the provisions of such law.

(*e*) An official translation of every law enacted by the Oireachtas in the Irish language shall be issued in the English language and an official translation of every law enacted by the Oireachtas in the English language shall be issued in the Irish language.

REFERENCE OF BILLS TO THE SUPREME COURT

26. This article applies to any bill passed or deemed to have been passed by both Houses of the Oireachtas other than a money bill, or a bill expressed to be a bill containing a proposal to amend the constitution, or a bill the time for the consideration of which by Seanad Eireann shall have been abridged under article 24 of this constitution.

(1) (*a*) The President may, after consultation with the Council of State, refer any bill to which this article applies to the Supreme Court for a decision on the question as to whether such bill or any specified provision or provisions of such bill is or are repugnant to this constitution or to any provision thereof.

(*b*) Every such reference shall be made not later than 4 days after the date on which such bill shall have been passed or deemed to have been passed by both Houses of the Oireachtas.

(*c*) The President shall not sign any bill the subject of a reference to the Supreme Court under this article pending the pronouncement of the decision of the court.

(2) (*a*) The Supreme Court consisting of not less than five judges shall consider every question referred to it by the President under this article for a decision, and, having heard arguments by or on behalf of the Attorney General and by counsel assigned by the Court, shall pronounce its decision on such question in open court as soon as may be, and in any case not later than 60 days after the date of such reference.

(*b*) The decision of the majority of the judges of the Supreme Court shall, for the purposes of this article, be the decision of the Court.

(3) (*a*) In every case in which the Supreme Court decides that any provision of a bill the subject of a reference to the Supreme Court under this article is repugnant to this constitution or to any provision thereof, the President shall decline to sign such bill.

(*b*) In every other case the President shall sign the bill as soon as may be after the date on which the decision of the Supreme Court shall have been pronounced.

REFERENCE OF BILLS TO THE PEOPLE

27. This article applies to any bill, other than a bill expressed to be a bill containing a proposal for the amendment of this Constitution, which shall have been deemed, by virtue of article 23 hereof, to have been passed by both Houses of the Oireachtas.

(1) A majority of the members of Seanad Eireann and not less than one third of the members of Dáil Eireann may by a joint petition addressed to the President by them under this article request the President to decline to sign and promulgate as a law any bill to which this article applies on the ground that the bill contains a proposal of such national importance that the will of the people thereon ought to be ascertained.

(2) Every such petition shall be in writing signed by the petitioners, shall contain a statement of the particular ground or grounds on which the request is

based, and shall be presented to the President not later than 4 days after the date on which the bill shall have been deemed to have been passed by both Houses of the Oireachtas.

(3) Upon receipt of a petition addressed to him under this article, the President shall forthwith consider such petition and shall, after consultation with the Council of State, pronounce his decision thereon not later than 10 days after the date on which the bill to which such petition relates shall have been deemed to have been passed by both Houses of the Oireachtas.

(4) (*a*) In every case in which the President decides that a bill the subject of a petition under this article contains a proposal of such national importance that the will of the people thereon ought to be ascertained, he shall inform the Taoiseach and the Chairman of each House of the Oireachtas accordingly in writing under his hand and Seal and shall decline to sign and promulgate such bill as a law unless and until the proposal shall have been approved either—

(*i*) By the people at a referendum in accordance with the provisions of section (2) of article 47 of this constitution within a period of 18 months from the date of the President's decision ; or

(*ii*) by a resolution of Dáil Eireann passed within the said period after a dissolution and reassembly of Dáil Eireann.

(*b*) Every such bill which shall have been approved either by the people or by a resolution of Dáil Eireann in accordance with the foregoing provisions of this section shall as soon as may be after such approval be presented to the President for his signature and promulgation by him as a law and the President shall thereupon sign the bill and duly promulgate it as a law.

(5) In every case in which the President decides that a bill the subject of a petition under this article does not contain a proposal of such national importance that the will of the people thereon ought to be ascertained, he shall inform the Taoiseach and the Chairman of each House of the Oireachtas accordingly in writing under his hand and Seal, and such bill shall be signed by the President not later than 11 days after the date on which the bill shall have been deemed to have been passed by both Houses of the Oireachtas and shall be duly promulgated by him as a law.

THE GOVERNMENT

28. (1) The Government shall consist of not less than seven and not more than fifteen members who shall be appointed by the President in accordance with the provisions of this constitution.

(2) The executive power of the State shall, subject to the provisions of this constitution, be exercised by or on the authority of the Government.

(3) (*a*) War shall not be declared and the State shall not participate in any war save with the assent of Dáil Eireann.

(*b*) In the case of actual invasion, however, the Government may take whatever steps they may consider necessary for the protection of the State, and Dáil Eireann if not sitting shall be summoned to meet at the earliest practicable date.

(*c*) Nothing in this constitution shall be invoked to invalidate any law enacted by the Oireachtas which is expressed to be for the purpose of securing the public safety and the preservation of the State in time of war or armed rebellion, or to nullify any act done or purporting to be done in pursuance of any such law.

(4) (*a*) The Government shall be responsible to Dáil Eireann.

(*b*) The Government shall meet and act as a collective authority, and shall be collectively responsible for the Departments of State administered by the members of the Government.

(*c*) The Government shall prepare estimates of the receipts and estimates of the expenditure of the State for each financial year, and shall present them to Dáil Eireann for consideration.

(5) (*a*) The head of the Government, or Prime Minister, shall be called, and is in this Constitution referred to as, "the Taoiseach".

(*b*) The Taoiseach shall keep the President generally informed on matters of domestic and international policy.

(6) (*a*) The Taoiseach shall nominate a member of the Government to be the Tánaiste.

(*b*) The Tánaiste shall act for all purposes in the place of Taoiseach if the Taoiseach should die, or become permanently incapacitated, until a new Taoiseach should have been appointed.

(*c*) The Tánaiste shall also act for or in the place of the Taoiseach during the temporary absence of the Taoiseach.

(7) (*a*) The Taoiseach, the Tánaiste and the member of the Government who is in charge of the Department of Finance must be members of Dáil Eireann.

(*b*) The other members of the Government must be members of Dáil Eireann or Seanad Eireann, but not more than two may be members of Seanad Eireann.

(8) Every member of the Government shall have the right to attend and to be heard in each House of the Oireachtas.

(9) (*a*) The Taoiseach may resign from office at any time by placing his resignation in the hands of the President.

(*b*) Any other member of the Government may resign from office by placing his resignation in the hands of the Taoiseach for submission to the President.

(*c*) The President shall accept the resignation of a member of the Government, other than the Taoiseach, if so advised by the Taoiseach.

(*d*) The Taoiseach may at any time, for reasons which to him seem sufficient, request a member of the Government to resign ; should the member concerned fail to comply with the request, his appointment shall be terminated by the President if the Taoiseach so advises.

(10) The Taoiseach shall resign from office upon his ceasing to retain the support of a majority in Dáil Eireann unless on his advice the President dissolves Dáil Eireann and on the reassembly of Dáil Eireann after the dissolution the Taoiseach secures the support of a majority in Dáil Eireann.

(11) (*a*) If the Taoiseach at any time resigns from office the other members of the Government shall be deemed also to have resigned from office, but the Taoiseach and the other members of the Government shall continue to carry on their duties until their successors shall have been appointed.

(*b*) The members of the Government in office at the date of a dissolution of Dáil Eiremann shall continue to hold office until their successors shall have been appointed.

(12) The following matters shall be regulated in accordance with law namely, the organisation of, and distribiution of business amongst, Departments of State, the designation of members of the Government to be Ministers in charge of the said Departments, the discharge of the functions of the office of a member of the Government during his temporary absence or incapacity, and the remuneration of the members of the Government.

INTERNATIONAL RELATIONS

29. (1) Ireland affirms its devotion to the ideal of peace and friendly co operation amongst nations founded on international justice and morality.

(2) Ireland affirms its adherence to the principle of the pacific settlement of international disputes by international arbitration or judicial determination.

(3) Ireland accepts the generally recognised principles of international law as its rule of conduct in its relations with other States.

(4) (*a*) The executive power of the State in or in connection with its external relations shall in accordance with article 28 of this constitution be exercised by or on the authority of tht Government.

(*b*) For the purpose of the exercise of any executive function o fthe State in or in connection with its external relations, the Government may may to such extent and subject to such conditions, if any, as may be determined by law, avail

of or adopt any organ, instrument, or method of procedure used or adopted for the like purpose by the members of any group or league of nations with which the State is or becomes associated for the purpose of international co-operation in matters of common concern.

(5) (*a*) Every international agreement to which the State becomes a party shall be laid before Dáil Eireann.

(*b*) The State shall not be bound by any international agreement involving a charge upon public funds unless the terms of the agreement shall have been approved by Dáil Eireann.

(*c*) This section shall not apply to agreements or conventions of a technical and administrative character.

(6) No international agreement shall be part of the domestic law of the State save as may be determined by the Oireachtas.

THE ATTORNEY-GENERAL

30. (1) There shall be an Attorney-General who shall be the adviser of the Government in matters of law and legal opinion, and shall exercise and perform all such powers, functions and duties as are conferred or imposed on him by this constitution or by law.

(2) The Attorney-General shall be appointed by the President on the nomination of the Taoiseach.

(3) All crimes and offences prosecuted in any court constituted under article 34 of this constitution other than a court of summary jurisdiction shall be prosecuted in the name of the people and at the suit of the Attorney-General or some other person authorised in accordance with law to act for that purpose.

(4) The Attorney-General shall not be a member of the Government.

(5) (*a*) The Attorney-General may at any time resign from office by placing his resignation in the hands of the Taoiseach for submission to the President.

(*b*) The Taoiseach may, for reasons which to him seem sufficient, request the resignation of the Attorney-General.

(*c*) In the event of failure to comply with the request, the appointment of the Attorney-General shall be terminated by the President if the Taoiseach so advises.

(*d*) The Attorney-General shall retire from office upon the resignation of the Taoiseach, but may continue to carry on his duties until the successor to the Taoiseach shall have been appointed.

(6) Subject to the foregoing provisions of this article, the office of Attorney-General, including the remuneration to be paid to the holder of the office, shall be regulated by law.

THE COUNCIL OF STATE

31. (1) There shall be a Council of State to aid and counsel the President on all matters on which the President may consult the said Council in relation to the exercise and performance by him of such of his powers and functions as are by this constitution expressed to be exercisable and performable after consultation with the Council of State, and to exercise such other functions as are conferred on the said Council by this constitution.

(2) The Council of State shall consist of the following members:

(*i*) As *ex officio* members: the Taoiseach, the Tánaiste, the Chief Justice, the president of the High Court, the Chairman of Dáil Eireann, the Chairman of Seanad Eireann, and the Attorney-General.

(*ii*) Every person able and willing to act as a member of the Council of State who shall have held the office of President, or the office of Taoiseach, or the office of Chief Justice, or the office of President of the Executive Council of Saorstát Eireann.

(*iii*) Such other persons, if any, as may be appointed by the President under this article to be members of the Council of State.

(3) The President may at any time and from time to time by warrant under his hand and Seal appoint such other persons as, in his absolute discretion, he may think fit to be members of the Council of State, but not more than seven persons so appointed shall be members of the Council of State at the same time.

(4) Every member of the Council of State shall at the first meeting thereof which he attends as a member take and subscribe a declaration in the following form:

"In the presence of Almighty God I..... .....do solemnly and sincerely promise and declare that I will faithfully and conscientiously fulfil my duties as a member of the Council of State."

(5) Every member of the Council of State appointed by the President, unless he previously dies, resigns, becomes permanently incapacitated, or is removed from office, shall hold office until the successor of the President by whom he was appointed shall have entered upon his office.

(6) Any member of the Council of State appointed by the President may resign from office by placing his resignation in the hands of the President.

(7) The President may, for reasons which to him seem sufficient, by an order under his hand and Seal, terminate the appointment of any member of the Council of State appointed by him.

(8) Meetings of the Council of State may be convened by the President at such times and places as he shall determine.

32. The President shall not exercise or perform any of the powers or functions which are by this constitution expressed to be exercisable or performable by him after consultation with the Council of State unless, and on every occasion before so doing, he shall have convened a meeting of the Council of State and the members present at such meeting shall have been heard by him.

THE COMPTROLLER AND AUDITOR-GENERAL

33. (1) There shall be a Comptroller and Auditor-General to control on behalf of the State all disbursements and to audit all accounts of moneys administered by or under the authority of the Oireachtas.

(2) The Comptroller and Auditor-General shall be appointed by the President on the nomination of Dáil Eireann.

(3) The Comptroller and Auditor-General shall not be a member of either House of the Oireachtas and shall not hold any other office or position of emolument.

(4) The Comptroller and Auditor-General shall report to Dáil Eireann at stated periods as determined by law.

(5) (*a*) The Comptroller and Auditor-General shall not be removed from office except for stated misbehaviour or incapacity, and then only upon resolutions passed by Dáil Eireann and by Seanad Eireann calling for his removal.

(*b*) The Taoiseach shall duly notify the President of any such resolutions as aforesaid passed by Dáil Eireann and by Seanad Eireann and shall send him a copy of each such resolution certified by the Chairman of the House of the Oireachtas by which it shall have been passed.

(*c*) Upon receipt of such notification and of copies of such resolutions the President shall forthwith, by an order under his hand and Seal, remove the Comptroller and Auditor-General shall be determined by law.

(6) Subject to the foregoing, the terms and conditions of the office of Comptroller and Auditor-General shall be determined by law.

THE COURTS

34. (1) Justice shall be administered in public courts established by law by judges appointed in the manner provided by this constitution.

(2) The courts shall comprise courts of first instance and a court of final appeal.

(3) (*a*) The courts of first instance shall include a High Court invested with full original jurisdiction in and power to determine all matters and questions whether of law or fact, civil or criminal.

(*b*) The jurisdiction of the High Court shall extend to the question of the validity of any law having regard to the provisions of this constitution, and in all cases in which any such matters shall come into question the High Court alone shall exercise original jurisdiction.

(*c*) The courts of first instance shall also include courts of local and limited jurisdiction with a right of appeal as determined by law.

(4) (*a*) The court of final appeal shall be called "the Supreme Court".

(*b*) The president of the Supreme Court shall be called "the Chief Justice"

(*c*) The Supreme Court shall, with such exceptions and subject to such regulations as may be prescribed by law, have appellate jurisdiction from all decisions of the High Court, and shall also have appellate jurisdiction from such decisions of other courts as may be prescribed by law.

(*d*) No law shall be enacted excepting from the appellate jurisdiction of the Supreme Court cases which involve questions as to the validity of any law having regard to the provisions of this constitution.

(*e*) The decision of the Supreme Court shall in all cases be final and conclusive.

(5) (*a*) Every person appointed a judge under this constitution shall make and subscribe the following declaration:—

"In the presence of Almighty God I..... .....do solemnly and sincerely promise and declare that I will duly and faithfully and to the best of my knowledge and power execute the office of Chief Justice (*or as the case may be*) without fear or favour, affection or ill-will towards any man, and that I will uphold the constitution and the laws. May God direct and sustain me."

(*b*) This declaration shall be made and subscribed by the Chief Justice in the presence of the President, and by each of the other judges of the Supreme Court, the judges of the High Court and the judges of every other court in the presence of the Chief Justice or the senior available judge of the Supreme Court in open court.

(*c*) The declaration shall be made and subscribed by every judge before entering upon his duties as such judge, and in any case not later than 10 days after the date of his appointment or such later date as may be determined by the President.

(*d*) Any judge who declines or neglects to make such declaration as aforesaid shall be deemed to have vacated his office.

35. (1) The judges of the Supreme Court, the High Court and all other courts established in pursuance of article 34 hereof shall be appointed by the President.

(2) All judges shall be independent in the exercise of their judicial functions and subject only to this constitution and the law.

(3) No judge shall be eligible to be a member of either House of the Oireachtas or to hold any other office or position of emolument.

(4) (*a*) A judge of the Supreme Court or the High Court shall not be removed from office except for stated misbehaviour or incapacity, and then only upon resolutions passed by Dáil Eireann and by Seanad Eireann calling for his removal.

(*b*) The Taoiseach shall duly notify the President of any such resolutions passed by Dáil Eireann and by Seanad Eireann, and shall send him a copy of every such resolution certified by the Chairman of the House of the Oireachtas by which it shall have been passed.

(*c*) Upon receipt of such notification and of copies of such resolutions, the President shall forthwith, by an order under his hand and Seal, remove from office the judge to whom they relate.

(5) The remuneration of a judge shall not be reduced during his continuance in office.

36. Subject to the foregoing provisions of this Constitution relating to the courts, the following matters shall be regulated in accordance with law, that is to say:—

(*i*) the number of judges of the Supreme Court, and of the High Court, the remuneration, age of retirement and pensions of such judges;

(*ii*) the number of the judges of all other courts, and their terms of appointment; and

(*iii*) the constitution and organisation of the said courts, the distribution of jurisdiction and business among the said courts and judges, and all matters of procedure.

37. Nothing in this Constitution shall operate to invalidate the exercise of limited functions and powers of a judicial nature, in matters other than criminal matters, by any person or body of persons duly authorised by law to exercise such functions and powers, notwithstanding that such person or such body of persons is not a judge or a court appointed or established as such under this constitution.

TRIAL OF OFFENCES

38. (1) No person shall be tried on any criminal charge save in due course of law.

(2) Minor offences may be tried by courts of summary jurisdiction.

(3) (*a*) Special courts may be established by law for the trial of offences in cases where it may be determined in accordance with such law that the ordinary courts are inadequate to secure the effective administration of justice and the preservation of public peace and order.

(*b*) The constitution, powers, jurisdiction and procedure of such special courts shall be prescribed by law.

(4) (*a*) Military tribunals may be established for the trial of offences against militray law alleged to have been committed by persons while subject to military law and also to deal with a state of war or armed rebellion.

(*b*) A member of the defence forces not on active service shall not be tried by any court-martial or other military tribunal for an offence cognisable by the civil courts unless such offence is within the jurisdiction of any court-martial or other military tribunal under any law for the enforcement of military discipline.

(5) Save in the case of the trial of offences under section (2), section (3) or section (4) of this article no person shall be tried on any criminal charge without a jury.

(6) The provisions of articles 34 and 35 of this Constitution shall not apply to any court or tribunal set up under section (3) or section (4) of this article.

39. Treason shall consist only in levying war against the State, or assisting any State or person or inciting or conspiring with any person to levy war against the State, or attempting by force of arms or other violent means to overthrow the organs of government established by this constitution, or taking part or being concerned in or inciting or conspiring with any person to make or to take part or be concerned in any such attempt.

FUNDAMENTAL RIGHTS

Personal Rights

40. (1) All Citizens shall, as human persons, be held equal before the law. This shall not be held to mean that the State shall not in its enactments have due regard to differences of capacity, physical and moral, and of social function.

(2) (*a*) Titles of nobility shall not be conferred by the State.

(*b*) No title of nobility or of honour may be accepted by any citizen except with the prior approval of the Government.

(3) (*a*) The State guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate the personal rights of the citizen.

(*b*) The State shall, in particular, by its laws protect as best it may from unjust attack and, in the case of injustice done, vindicate the life, person, good name and property rights of every citizen.

(4) (*a*) No citizen shall be deprived of his personal liberty save in accordance with law.

(*b*) Upon complaint being made by or on behalf of any person that he is being unlawfully detained, the High Court and any and every judge thereof shall forthwith enquire into the same and may make an order requiring the person in whose custody such person shall be detained to produce the body of the person so detained before such court or judge without delay and to certify in writing as to the cause of the detention, and such court or judge shall thereupon order the release of such person unless satisfied that he is being detained in accordance with the law.

(*c*) Nothing in this section, however, shall be invoked to prohibit, control or interfere with any act of the defence forces during the existence of a state of war or armed rebellion.

(5) The dwelling of every citizen is inviolable and shall not be forcibly entered save in accordance with law.

(6) (*a*) The State guarantees liberty for the exercise of the following rights, subject to public order and morality:—

(*i*) The right of the citizens to express freely their convictions and opinions.

The education of public opinion being, however, a matter of such grave import to the common good, the State shall endeavour to ensure that organs of public opinion, such as the radio, the press, the cinema, while preserving their rightful liberty of expression, including criticism of Government policy, shall not be used to undermine public order or morality or the authority of the State.

The publication or utterance of blasphemous, seditious or indecent matter is an offence which shall be punishable in accordance with law.

(*ii*) The right of the citizens to assemble peaceably and without arms.

Provision may be made by law to prevent or control meetings which are determined in accordance with law to be calculated to cause a breach of peace or to be a danger or nuisance to the general public and to prevent or control meetings in the vicinity of either House of the Oireachtas.

(*iii*) The rights of the citizens to form associations and unions.

Laws, however, may be enacted for the regulation and control in the public interest of the exercise of the foregoing right.

(*b*) Laws regulating the manner in which the right of forming associations and unions and the right of free assembly may be exercised shall contain no political, religious or class discrimination.

The Family

41. (1) (*a*) The State recognises the family as the natural primary and fundamental unit group of society, and as a moral institution possessing inalienable and imprescriptible rights, antecedent and superior to all positive law.

(*b*) The State, therefore, guarantees to protect the family in its constitution and authority, as the necessary basis of social order and as indispensable to the welfare of the nation and the State.

(2) (*a*) In particular, the State recognises that by her life within the home, woman gives to the State a support without which the common good cannot be achieved.

(*b*) The State shall, therefore, endeavour to ensure that mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home.

(3) (*a*) The State pledges itself to guard with special care the institution of marriage, on which the family is founded, and to protect it against attack.

(*b*) No law shall be enacted providing for the grant of a dissolution of marriage.

(*c*) No person whose marriage has been dissolved under the civil law of any other State but is a subsisting valid marriage under the law for the time being in force within the jurisdiction of the Government and Parliament established by this constitution shall be capable of contracting a valid marriage within that jurisdiction during the lifetime of the other party to the marriage so dissolved.

Education

42. (1) The State acknowledges that the primary and natural educator of the child is the family and guarantees to respect the inalienable right and duty of parents to provide, according to their means, for the religious and moral, intellectual, physical and social education of their children.

(2) Parents shall be free to provide this education in their homes or in private schools or in schools recognised or established by the State.

(3) (*a*) The State shall not oblige parents in violation of their conscience and lawful preference to send their children to schools established by the State, or to any particular type of school designated by the State.

(b) The State shall, however, as guardian of the common good, require in view of actual conditions that the children receive a certain minimum education, moral, intellectual and social.

(4) The State shall provide for free primary education and shall endeavour to supplement and give reasonable aid to private and corporate educational initiative, and, when the public good requires it, provide other educational facilities or institutions with due regard, however, for the rights of parents, especially in the matter of religious and moral formation.

(5) In exceptional cases, where the parents for physical or moral reasons fail in their duty towards their children, the State as guardian of the common good, by appropriate means shall endeavour to supply the place of the parents but always with due regard for the natural and imprescriptible rights of the child.

Private Property

43. (1) (*a*) The State acknowledges that man, in virtue of his rational being, has the natural right, antecedent to positive law, to the private ownership of external goods.

(*b*) The State accordingly guarantees to pass no law attempting to abolish the right of private ownership or the general right to transfer, bequeath and inherit property.

(2) (*a*) The State recognises, however, that the exercise of the rights mentioned in the foregoing provisions of this article ought, in civil society, to be regulated by the principles of social justice.

(*b*) The State, accordingly, may as occasion requires delimit by law the exercise of the said rights with a view to reconciling their exercise with the exigencies of the common good.

Religion

44. (1) (*a*) The State acknowledges that the homage of public worship is due to Almighty God. It shall hold His Name in reverence and shall respect and honour religion.

(*b*) The State recognises the special position of the Holy Catholic Apostolic and Roman Church as the guardian of the faith professed by the great majority of the citizens.

(*c*) The State also recognises the Church of Ireland, the Presbyterian Church in Ireland, the Methodist Church in Ireland, the Religious Society of Friends in

Ireland, as well as the Jewish congregations and the other religious denominations existing in Ireland at the date of the coming into operation of this constitution.

(2) (*a*) Freedom of conscience and the free profession and practice of religion are, subject to public order and morality, guaranteed to every citizen.

(*b*) The State guarantees not to endow any religion.

(*c*) The State shall not impose any disabilities or make any discrimination on the ground of religious profession, belief or status.

(*d*) Legislation providing State aid for schools shall not discriminate between schools under the management of different religious denominations, nor be such as to affect prejudicially the right of any child to attend a school receiving public money without attending religious instruction at that school.

(*e*) Every religious denomination shall have the right to manage its own affairs, own, acquire and administer property, movable and immovable, and maintain institutions for religious or charitable purposes.

(*f*) The property of any religious denomination or any educational institution shall not be diverted save for necessary works of public utility and on payment of compensation.

DIRECTIVE PRINCIPLES OF SOCIAL POLICY

45. The principles of social policy set forth in this article are intended for the general guidance of the Oireachtas. The application of those principles in the making of laws shall be the care of the Oireachtas exclusively, and shall not be cognisable by any court under any of the provisions of this Constitution.

(1) The State shall strive to promote the welfare of the whole people by securing and protecting as effectively as it may a social order in which justice and charity shall inform all the institutions of the national life.

(2) The State shall, in particular, direct its policy towards securing—

(*i*) that the citizens (all of whom, men and women equally, have the right to an adequate means of livelihood) may through their occupations find the means of making reasonable provision for their domestic needs;

(*ii*) that the ownership and control of the material resources of the community may be so distributed amongst private individuals and the various classes as best to subserve the common good;

(*iii*) that, especially, the operation of free competition shall not be allowed so to develop as to result in the concentration of the ownership or control of essential commodities in a few individuals to the common detriment;

(*iv*) that in what pertains to the control of credit the constant and predominant aim shall be the welfare of the people as a whole;

(*v*) that there may be established on the land in economic security as many families as in the circumstances shall be practicable.

(3) (*a*) The State shall favour and, where necessary, supplement private initiative in industry and commerce.

(*b*) The State shall endeavour to secure that private enterprise shall be so conducted as to ensure reasonable efficiency in the production and distribution of goods and as to protect the public against unjust exploitation.

(4) (*a*) The State pledges itself to safeguard with especial care the economic interests of the weaker sections of the community, and, where necessary, to contribute to the support of the infirm, the widow, the orphan, and the aged.

(*b*) The State shall endeavour to ensure that the strength and health of workers, men and women, and the tender age of children shall not be abused and that citizens shall not be forced by economic necessity to enter avocations unsuited to their sex, age or strength.

46. (1) Any provision of this constitution may be amended, whether by way of variation, addition, or repeal, in the manner provided by this article.

(2) Every proposal for an amendment of this constitution shall be initiated in Dáil Eireann as a bill, and shall upon having been passed or deemed to have been passed by both Houses of the Oireachtas, be submitted by referendum to

the decision of the people in accordance with the law for the time being in force relating to the referendum.

(3) Every such bill shall be expressed to be "An Act to amend the Constitution".

(4) A bill containing a proposal or proposals for the amendment of this constitution shall not contain any other proposal.

(5) A bill containing a proposal for the amendment of this constitution shall be signed by the President forthwith upon his being satisfied that the provisions of this article have been complied with in respect thereof and that such proposal has been duly approved by the people in accordance with the provisions of section (1) of article 47 of this constitution and shall be duly promulgated by the President as a law.

THE REFERENDUM

47. (1) Every proposal for an amendment of this constitution which is submitted by referendum to the decision of the people shall, for the purpose of article 46 of this constitution, be held to have been approved by the people, if, upon having been so submitted, a majority of the votes cast at such referendum shall have been cast in favour of its enactment into law.

(2) (*a*) Every bill and every proposal, other than a proposal to amend the constitution, which is submitted by referendum to the decision of the people shall be held to have been vetoed by the people if a majority of the votes cast at such referendum shall have been cast against its enactment into law and if the votes so cast against its enactment into law shall have amounted to not less than thirty-three and one-third per cent., of the voters on the register.

(*b*) Every bill and every proposal, other than a proposal to amend the constitution, which is submitted by referendum to the decision of the people shall for the purposes of article 27 hereof be held to have been approved by the people unless vetoed by them in accordance with the provisions of the foregoing subsection of this section.

(3) Every citizen who has the right to vote at an election for members of Dáil Eireann shall have the right to vote at a referendum.

(4) Subject as aforesaid, the referendum shall be regulated by law.

REPEAL OF CONSTITUTION OF SAORSTAT EIREANN AND CONTINUANCE OF LAWS

48. The Constitution of Saorstát Eireann in force immediately prior to the date of the coming into operation of this constitution and "The Constitution of the Irish Free State (Saorstát Eireann) Act, 1922," in so far as that Act or any provision thereof is then in force, shall be and are hereby repealed as on and from that date.

49. (1) All powers, functions, rights and prerogatives whatsoever exercisable in or in respect of Saorstát Eireann immediately before the 11th day of December, 1936, whether in virtue of the constitution then in force or otherwise, by the authority in which the executive power of Saorstát Eireann was then vested are hereby declared to belong to the people.

(2) It is hereby enacted that, save to the extent to which provision is made by this constitution or may hereafter be made by law for the exercise of any such power, function, right or prerogative by any of the organs established by this constitution, the said powers, functions, rights and prerogatives shall not be exercised or be capable of being exercised in or in respect of the State save only by or on the authority of the Government.

(3) The Government shall be the successors of the Government of Saorstát Eireann as regards all property, assets, rights and liabilities.

50. (1) Subject to this Constitution and to the extent to which they are not inconsistent therewith, the laws in force in Saorstát Eireann immediately prior to the date of the coming into operation of this Constitution shall continue to be of full force and effect until the same or any of them shall have been repealed or amended by enactment of the Oireachtas.

(2) Laws enacted before, but expressed to come into force after, the coming into operation of this Constitution, shall, unless otherwise enacted by the Oireachtas, come into force in accordance with the terms thereof.

TRANSITORY PROVISIONS (*not printed*)

62. This Constitution shall come into operation—

(i) on the day following the expiration of a period of 180 days after its approval by the people signified by a majority of the votes cast at a plebiscite thereon held in accordance with law; or

(ii) on such earlier day after such approval as may be fixed by a resolution of Dáil Eireann elected at the general election the polling for which shall have taken place on the same day as the said plebiscite.

63. A copy of this Constitution signed by the Taoiseach, the Chief Justice, and the Chairman of Dáil Eireann, shall be enrolled for record in the office of the Registrar of the Supreme Court, and such signed copy shall be conclusive evidence of the provisions of this constitution. In case of conflict between the Irish and the English texts, the Irish text shall prevail.

VII. CONSTITUTION OF JAPAN

[1][November 3, 1946

We, the Japanese people, acting through our duly elected representatives in the National Diet, determined that we shall secure for ourselves and our posterity the fruits of peaceful co-operation with all nations and the blessings of liberty throughout this land, and resolved that never again shall we be visited with the horrors of war through the action of government, to proclaim that sovereign power resides with the people and do firmly establish this Constitution. Government is a sacred trust of the people, the authority for which is derived from the people, the powers of which are exercised by the representatives of the people, and the benefits of which are enjoyed by the people. This is a universal principle of mankind upon which this Constitution is founded. We reject and revoke all constitutions, laws, ordinances, and rescripts in conflict herewith. We, the Japanese people, desire peace for all time and are deeply conscious of the high ideals controlling human relationships and we have determined to preserve our security and existence, trusting in the justice and faith of the peace-loving peoples of the world. We desire to occupy an honoured place in an international society striving for the preservation of peace, and the banishment of tyranny and slavery, oppression and intolerance for all time from the earth. We recognize that all peoples of the world have the right to live in peace, free from fear and want.

We believe that no nation is responsible to itself alone, but that laws of political morality are universal; and that obedience to such laws is incumbent upon all nations which would sustain their own sovereignty and justify their sovereign relationship with other nations.

We, the Japanese people, pledge our national honor to accomplish these high ideals and purposes with all our resources.

Chapter I. The Emperor

Art. 1.—The Emperor shall be the symbol of the State and of the unity of the people, deriving his position from the will of the people with whom resides sovereign power.

Art. 2.—The imperial throne shall be dynastic and succeeded to in accordance with the Imperial House Law passed by the Diet.

Art. 3.—The advice and approval of the Cabinet shall be required for all acts of the Emperor in matters of state, and the Cabinet shall be responsible therefor.

Art. 4.—The Emperor shall perform only such acts in matters of state as are provided for in this Constitution, and he shall not have powers related to government.

The Emperor may delegate the performance of his acts in matters of state as may be provided by law.

Art. 5.—When, in accordance with the Imperial House Law, a regency is established the regent shall perform his acts in matters of state in the Emperor's name. In this case, paragraph one of the preceding Article will be applicable.

Art. 6.—The Emperor shall appoint the Prime Minister as designated by the Diet.

The Emperor shall appoint the chief judge of the Supreme Court, as designated by the Cabinet.

Art. 7.—The Emperor, with the advice and approval of the Cabinet, shall perform the following acts in matters of state on behalf of the people:

Promulgation of amendments of the Constitution, laws, Cabinet orders, and treaties.

Convocation of the Diet.

Dissolution of the House of Representatives.

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[1] Effective from May 3, 1947.

Proclamation of general election of members of the Diet.

Attestation of the appointment and dismissal of ministers of state and other officials as provided for by law, and of full powers and credentials of ambassadors and ministers.

Attestation of general and special amensty, commutation of punishment reprieve, and restoration of rights.

Awarding of honors.

Attestation of instruments of ratification and other diplomatic documents as provided for by law.

Receiving foreign ambassadors and ministers.

Performance of ceremonial functions.

Art. 8.—No property can be given to, or received by, the imperial house, nor can any gifts be made therefrom, without the authorization of the Diet.

Chapter II. Renunciation of War

Art. 9.—Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as means of settling international disputes.

In order to accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as other war potential, will never be maintained. The right of belligerency of the State will not be recognised.

Chapter III. Rights and Duties of the People

Art. 10.—The conditions necessary for being a Japanese national shall be determined by law.

Art. 11.—The people shall not be prevented from enjoying any of the fundamental human rights. These fundamental human rights guaranteed to the people by this Constitution shall be conferred upon the people of this and future generations as eternal and inviolate rights.

Art. 12.—The freedoms and rights guaranteed to the people by this Constitution shall be maintained by the constant endeavor of the people who shall refrain from any abuse of these freedoms and rights and shall always be responsible for utilizing them for the public welfare.

Art. 13.—All of the people shall be respected as individuals. Their right to life, liberty, and the pursuit of happiness shall, to the extent that it does not interfere with the public welfare, be the supreme consideration in legislation and in other governmental affairs.

Art. 14.—All of the people are equal under the law and there shall be no discrimination in political, economic or social relations because of race, creed, sex, social status, or family origin.

Peers and peerage shall not be recognized.

No privilege shall accompany any award of honor, decoration, or any distinction, nor shall any such award be valid beyond the lifetime of the individual who now holds or hereafter may receive it.

Art. 15.—The people have the inalienable right to choose their public officials and to dismiss them.

All public officials are servants of the whole community and not of any group thereof.

Universal adult suffrage is guaranteed with regard to the election of public officials.

In all elections, secrecy of the ballot shall not be violated. A voter shall not be answerable, publicly or privately, for the choice he has made.

Art. 16.—Every person shall have the right of peaceful petition for the redress of damage, for the removal of public officials, for the enactment, repeal, or amendment of laws, ordinances, or regulations and for other matters; nor shall any person be in any way discriminated against for sponsoring such a petition.

Art. 17.—Every person may sue for redress, as provided by law, from the State or a public entity, in case he has suffered damage through illegal act of any public official.

Art. 18.—No person shall be held in bondage of any kind. Involuntary servitude, except as punishment for a crime, is prohibited.

Art. 19.—Freedom of thought and conscience shall not be violated.

Art. 20.—Freedom of religion is guaranteed to all. No religious organization shall receive any privileges from the State, nor exercise any political authority.

No person shall be compelled to take part in any religious act, celebration, rite, or practice.

The State and its organs shall refrain from religious education or any other religious activity.

Art. 21.—Freedom of assembly and association as well as speech, press, and all other forms of expression are guaranteed.

No censorship shall be maintained, nor shall the secrecy of any means of communication be violated.

Art. 22.—Every person shall have freedom to choose and change his residence and to choose his occupation to the extent that it does not interfere with the public welfare.

Freedom of all persons to move to a foreign country and to divest themselves of their nationality shall be inviolate.

Art. 23.—Academic freedom is guaranteed.

Art. 24.—Marriage shall be based only on the mutual consent of both sexes and it shall be maintained through mutual co-operation with the equal rights of husband and wife as a basis. With regard to choice of spouse, property rights, inheritance, choice of domicile, divorce, and other matters pretaining to marriage and the family, laws shall be enacted from the standpoint of individual dignity and the essential equality of the sexes.

Art. 25.—All people shall have the right to maintain the minimum standards of wholesome and cultured living.

In all spheres of life, the State shall use its endeavors for the promotion and extension of social welfare and security, and of public health.

Art. 26.—All people shall have the right to receive an equal education correspondent to their ability, as provided by law.

All people shall be obligated to have all boys and girls under their protection receive ordinary educations as provided for by law. Such compulsory education shall be free.

Art. 27.—All people shall have the right and the obligation to work.

Standards for wages, hours, rest and other working conditions shall be fixed by law.

Children shall not be exploited.

Art. 28.—The right of workers to organize and to bargain and act collectively is guaranteed.

Art. 29.—The right to own or to hold property is inviolable.

Property rights shall be defined by law, in conformity with the public welfare.

Private property may be taken for public use upon just compensation therefor.

Art. 30.—The people shall be liable to taxation as provided by law.

Art. 31.—No person shall be deprived of life or liberty, nor shall any other criminal penalty be imposed, except according to procedure established by law.

Art. 32.—No person shall be denied the right of access to the courts

Art. 33.—No person shall be apprehended except upon warrant issued by a competent judicial officer which specifies the offense with which the person is charged, unless he is apprehended, the offense being committed.

Art. 34.—No person shall be arrested or detained without being at once informed of the charges against him or without the immediate privilege of counsel; nor shall he be detained without adequate cause; and upon demand of any person such cause must be immediately shown in open court in his presence and the presence of his counsel.

Art. 35.—The right of all persons to be secure in their homes, papers and effects against entries, searches and seizures shall not be impaired except upon warrant issued for adequate cause and particularly describing the place to be searched and things to be seized, or except as provided by Article 33.

Each search or seizure shall be made upon separate warrant issued by a competent judicial officer.

Art. 36.—The infliction of torture by any public officer and cruel punishments are absolutely forbidden.

Art. 37.—In all criminal cases the accused shall enjoy the right to a speedy and public trial by an impartial tribunal.

He shall be permitted full opportunity to examine all witnesses, and he shall have the right of compulsory process for obtaining witnesses on his behalf at public expense.

At all times the accused shall have the assistance of competent counsel who shall, if the accused is unable to secure the same by his own efforts, be assigned to his use by the State.

Art. 38.—No person shall be compelled to testify against himself.

Confession made under compulsion, torture or threat, or after prolonged arrest or detention shall not be admitted in evidence.

No person shall be convicted or punished in cases where the only proof against him is his own confession.

Art. 39.—No person shall be held criminally liable for an act which was lawful at the time it was committed, or of which he has been acquitted, nor shall he be placed in double jeopardy.

Art. 40.—Any person, in case he is acquitted after he has been arrested or detained, may sue the State for redress as provided by law.

Chapter IV. The Diet

Art. 41.—The Diet shall be the highest organ of state power, and shall be the sole law-making organ of the State.

Art. 42.—The Diet shall consist of two Houses, namely the House of Representatives and the House of Councillors.

Art. 43.—Both Houses shall consist of elected members, representative of all the people.

The number of the members of each House shall be fixed by law.

Art. 44.—The qualifications of members of both Houses and their electors shall be fixed by law. However, there shall be no discrimination because of race, creed, sex, social status, family origin, education, property or income.

Art. 45.—The term of office of members of the House of Representatives shall be four years. However, the term shall be terminated before the full term is up in case the House of Representatives is dissolved.

Art. 46.—The term of office of members of the House of Councillors shall be six years, and election for half the members shall take place every three years.

Art. 47.—Electoral districts, method of voting and other matters pertaining to the method of election of members of both Houses shall be fixed by law.

Art. 48.—No person shall be permitted to be a member of both Houses simultaneously.

Art. 49.—Members of both Houses shall receive appropriate annual payment from the national treasury in accordance with law.

Art. 50.—Except in cases provided by law, members of both Houses shall be exempt from apprehension while the Diet is in session, and any members apprehended before the opening of the session shall be freed during the term of the session upon demand of the House.

Art. 51.—Members of both Houses shall not be held liable outside the House for speeches, debates or votes cast inside the House.

Art. 52.—An ordinary session of the Diet shall be convoked once per year.

Art. 53.—The Cabinet may determine to convoke extraordinary sessions of the Diet. When a quarter or more of the total members of either House makes the demand, the Cabinet must determine on such convocation.

Art. 54.—When the House of Representatives is dissolved, there must be a general election of members of the House of Representaives within forty (40) days from the date of dissolution, and the Diet must be convoked within thirty (30) days from the date of the election.

When the House of Representatives is dissolved, the House of Councillors is closed at the same time. However, the Cabinet may in time of national emergency convoke the House of Councillors in emergency session.

Measures taken at such session as mentioned in the proviso of the preceding paragraph shall be provisional and shall become null and void unless agreed to by the House of Representatives within a period of ten (10) days after the opening of the next session of the Diet.

Art. 55.—Each House shall judge disputes related to qualifications of its members. However, in order to deny a seat to any member, it is necessary to pass a resolution by a majority of two-thirds or more of the members present.

Art. 56.—Business cannot be transacted in either House unless one-third or more of total membership is present.

All matters shall be decided, in each House, by a majority of those present, except as elsewhere provided in the Constitution, and in case of a tie, the presiding officer shall decide the issue.

Art. 57.—Deliberation in each House shall be public. However, a secret meeting may be held where a majority of two-thirds or more of those members present passes a resolution therefor.

Each House shall keep a record of proceedings. This records shall be published and given general circulation, excepting such parts of proceedings of secret session as may be deemed to require secrecy.

Upon demand of one-fifth or more of the members present, votes of the members on any matter shall be recorded in the minutes.

Art. 58.—Each House shall select its own president and other officials.

Each House shall establish its rules pertaining to meetings, proceedings and internal discipline, and may punish members for disorderly conduct. However, in order to expel a member, a majority of two-thirds or more of those members present must pass a resolution thereon.

Art. 59.—A bill becomes a law on passage by both Houses, except as otherwise provided by the Constitution.

A bill which is passed by the House of Representatives, and upon which the House of Councillors makes a decision different from that of the House of Representatives, becomes a law when passed a second time by the House of Representatives by a majority of two-thirds or more of the members present.

The provision of the preceding paragraph does not preclude the House of Representatives from calling for the meeting of a joint committee of both Houses, provided for by law.

Failure by the House of Councillors to take final action within sixty (60) days after receipt of a bill passed by the House of Representatives, time in recess excepted, may be determined by the House of Representatives to constitute a rejection of the said bill by the House of Councillors.

Art. 60.—The budget must first be submitted to the House of Representatives.

Upon consideration of the budget, when the House of Councillors makes a decision different from that of the House of Representatives, and when no agreement can be reached even through a joint committee of both Houses, provided for by law, or in the case of failure by the House of Councillors to take final action within thirty (30) days, the period of recess excluded, after the receipt of the budget passed by the House of Representatives, the decision of the House of Representatives shall be the decision of the Diet.

Art. 61.—The second paragraph of the preceding article applies also to the Diet approval required for the conclusion of treaties.

Art. 62.—Each House may conduct investigations in relation to government, and may demand the presence and testimony of witnesses, and the production of records.

Art. 63.—The Prime Minister and other Ministers of State may, at any time, appear in either House for the purpose of speaking on bills, regardless of whether they are members of the House or not. They must appear when their presence is required in order to give answers or explanations.

Art. 64.—The Diet shall set up an impeachment court from among the members of both Houses for the purpose of trying those judges against whom removal proceedings have been instituted.

Matters relating to impeachment shall be provided by law.

Chapter V. The Cabinet

Art. 65.—Executive power shall be vested in the Cabinet.

Art. 66.—The Cabinet shall consist of the Prime Minister, who shall be its head, and other Ministers of State, as provided for by law.

The Prime Minister and other Ministers of State must be civilians.

The Cabinet, in the exercise of executive power, shall be collectively responsible to the Diet.

Art. 67.—The Prime Minister shall be designated from among the members of the Diet by a resolution of the Diet. This designation shall precede all other business.

If the House of Representatives and the House of Councillors disagree and if no agreement can be reached even through a joint committee of both Houses, provided for by law, or the House of Councillors fails to make designation within ten (10) days, exclusive of the period of recess, after the House of Representatives has made designation, the decision of the House of Representatives shall be the decision of the Diet.

Art. 68.—The Prime Minister shall appoint the Ministers of State. However, a majority of their number must be chosen from among the members of the Diet.

The Prime Minister may remove the Ministers of State as he chooses.

Art. 69.—If the House of Representatives passes a non-confidence resolution, or rejects a confidence resolution, the Cabinet shall resign en masse, unless the House of Representatives is dissolved within ten (10) days.

Art. 70.—When there is a vacancy in the post of Prime Minister, or upon the first convocation of the Diet after a general election of members of the House of Representatives, the Cabinet shall resign en masse.

Art. 71.—In the cases mentioned in the two preceding articles, the Cabinet shall continue its functions until the time when a new Prime Minister is appointed.

Art. 72.—The Prime Minister, representing the Cabinet, submits bills, reports on general national affairs and foreign relations to the Diet and exercises control and supervision over various administrative branches.

Art. 73.—The Cabinet, in addition to other general administrative functions, shall perform the following functions:

Administer the law faithfully: conduct affairs of state.

Manage foreign affairs.

Conclude treaties. However, it shall obtain prior or, depending on circumstances, subsequent approval of the Diet.

Administer the civil service, in accordance with standards established by law.

Prepare the budget, and present it to the Diet.

Enact cabinet orders in order to execute the provisions of this Constitution and of the law. However, it cannot include penal provisions in such cabinet orders unless authorized by such law.

Decide on general amnesty, special amnesty, commutation of punishment, reprieve, and restoration of rights.

Art. 74.—All laws and cabinet orders shall be signed by the competent Minister of State and countersigned by the Prime Minister.

Art. 75.—The Ministers of State, during their tenure of office, shall not be subject to legal action without the consent of the Prime Minister. However, the right to take that action is not impaired hereby.

Chapter VI. Judiciary

Art. 76.—The whole judicial power is vested in a Supreme Court and in such inferior courts as are established by law.

No extraordinary tribunal shall be established, nor shall any organ or agency of the Executive be given final judicial power.

All judges shall be independent in the exercise of their conscience and shall be bound only by this Constitution and the laws.

Art. 77.—The Supreme Court is vested with the rule-making power under which it determines the rules of procedure and of practice, and of matters relating to attorneys, the internal discipline of the courts and the administration of judicial affairs.

Public procurators shall be subject to the rule-making power of the Supreme Court.

The Supreme Court may delegate the power to make rules for inferior courts to such courts.

Art. 78.—Judges shall not be removed except by public impeachment unless judicially declared mentally or physically incompetent to perform official duties. No disciplinary action against judges shall be administered by any executive organ or agency.

Art. 79.—The Supreme Court shall consist of a Chief Judge and such number of judges as may be determined by law; all such judges excepting the Chief Judge shall be appointed by the Cabinet.

The appointment of the judges of the Supreme Court shall be reviewed by the people at the first general election of members of the House of Representatives following their appointment, and shall be reviewed again at the first general election of members of the House of Representatives after a lapse of ten (10) years, and in the same manner thereafter.

In cases mentioned in the foregoing paragraph, when the majority of the voters, favours the dismissal of a judge, he shall be dismissed.

Matters pertaining to review shall be prescribed by law.

The judges of the Supreme Court shall be retired upon the attainment of the age as fixed by law.

All such judges shall receive, at regular stated intervals, adequate compensation which shall not be decreased during their terms of office.

Art. 80.—The judges of the inferior courts shall be appointed by the Cabinet from a list of persons nominated by the Supreme Court. All such judges shall hold office for a term of ten (10) years with privilege of reappointment, provided that they shall be retired upon the attainment of the age as fixed by law.

The judges of the inferior courts shall receive, at regular stated intervals, adequate compensation which shall not be decreased during their terms of office.

Art. 81.—The Supreme Court is the court of last resort with power to determine the constitutionality of any law, order, regulation or official act.

Art. 82.—Trials shall be conducted and judgment declared publicly. Where a court unanimously determines publicity to be dangerous to public order or morals, a trial may be conducted privately, but trials of political offenses, offenses involving the press or cases wherein the rights of people as guaranteed in Chapter III of this Constitution are in question shall always be conducted publicly.

Chapter VII. Finance

Art. 83.—The power to administer national finances shall be exercised as the Diet shall determine.

Art. 84.—No new taxes shall be imposed or existing ones modified except by law or under such conditions as law may prescribe.

Art. 85.—No money shall be expended, nor shall the State obligate itself, except as authorized by the Diet.

Art. 86.—The Cabinet shall prepare and submit to the Diet for its consideration and decision a budget for each fiscal year.

Art. 87.—In order to provide for unforeseen deficiencies in the budget, a reserve fund may be authorized by the Diet to be expended upon the responsibility of the Cabinet.

The Cabinet must get subsequent approval of the Diet for all payments from the reserve fund.

Art. 88.—All property of the Imperial Household shall belong to the State. All expenses of the Imperial Household shall be appropriated by the Diet in the budget.

Art. 89.—No public money or other property shall be expended or appropriated for the use, benefit or maintenance of any religious institution or association, or for any charitable, educational or benevolent enterprises not under the control of public authority.

Art. 90.—Final accounts of the expenditures and revenues of the State shall be audited annually by a Board of Audit and submitted by the Cabinet to the Diet, together with the statement of audit, during the fiscal year immediately following the period covered.

The organization and competency of the Board of Audit shall be determined by law.

Art. 91.—At regular intervals and at least annually the Cabinet shall report to the Diet and the people on the state of national finances.

Chapter VIII. Local Self-Government

Art. 92.—Regulations concerning organization and operations of local public entities shall be fixed by law in accordance with the principle of local autonomy.

Art. 93.—The local public entities shall establish assemblies as their deliberative organs, in accordance with law.

The chief executive officers of all local public entities, the members of their assemblies, and such other local officials as may be determined by law shall be elected by direct popular vote within their several communities.

Art. 94.—Local public entities shall have the right to manage their property, affairs and administration and to enact their own regulations within law.

Art. 95.—A special law, applicable only to one local public entity, cannot be enacted by the Diet without the consent of the majority of the voters of the local public entity concerned, obtained in accordance with law.

Chapter IX. Amendments

Art. 96.—Amendments to this Constitution shall be initiated by the Diet, through a concurring vote of two-thirds or more of all the members of each House and shall thereupon be submitted to the people for ratification, which shall require the affirmative vote of a majority of all votes cast thereon, at a special referendum or at such election as the Diet shall specify.

Amendments when so ratified shall immediately be promulgated by the Emperor in the name of the people, as an integral part of this Constitution.

Chapter X. Supreme Law

Art. 97.—The fundamental human rights by this Constitution guaranteed to the people of Japan are fruits of the age-old struggle of man to be free; they have survived the many exacting tests for durability and are conferred upon this and future generations in trust, to be held for all time inviolate.

Art. 98.—This Constitution shall be the supreme law of the nation and no law, ordinance, imperial rescript or other act of government, or part thereof, contrary to the provisions hereof, shall have legal force or validity.

The treaties concluded by Japan and established laws of nations shall be faithfully observed.

Art. 99.—The Emperor or the Regent as well as Ministers of State, members of the Diet, judges, and all other public officials have the obligation to respect and uphold this Constitution.

Chapter XI. Supplementary Provisions

Art. 100.—This Constitution shall be enforced as from the day when the period of six months will have elapsed counting from the day of its promulgation.

The enactment of laws necessary for the enforcement of this Constitution, the election of members of the House of Councillors and the procedure for the convocation of the Diet and other preparatory procedures for the enforcement of this Constitution may be executed before the day prescribed in the preceding paragraph.

Art. 101-103.—*Not printed.*

VIII. CONSTITUTION OF THE FRENCH REPUBLIC (1958)

Preamble.

The French people hereby solemnly proclaim their attachment to the Rights of Man and to the principles of national sovereignty as defined by the Declaration of 1789, confirmed and complemented by the Preamble of the Constitution of 1946.

By virtue of these principles and that of the free determination of peoples, the Republic hereby offers to the Overseas Territories that express the desire to adhere to them, new institutions based on the common ideal of liberty, equality and fraternity, and conceived with a view to their democratic evolution.

Art. 1.—The Republic and the peoples of the Overseas Territories who, by an act of free determination, adopt the present Constitution thereby institute a Community.

The Community shall be based on the equality and the solidarity of the peoples composing it.

Title I

On Sovereignty.

Art. 2.—France shall be a Republic, indivisible, secular, democratic and social. It shall ensure the equality of all citizens before the law, without distinction of origin, race or religion. It shall respect beliefs.

The national emblem shall be the tricolour flag—blue, white and red.

The national anthem shall be the "Marseillaise."

The motto of the Republic shall be "Liberty, Equality, Fraternity."

Its principle shall be government of the people, by the people, and for the people.

Art. 3.—National sovereignty belongs to the people, which shall exercise this sovereignty through its representatives and through the referendum.

No section of the people, nor any individual, may attribute the exercise thereof to themselves or himself.

Suffrage may be direct or indirect under the conditions stipulated by the Constitution. It shall always be universal, equal and secret.

All French citizens of both sexes who have reached their majority and who enjoy civil and political rights may vote under the conditions to be determined by law.

Art. 4.—Political parties and groups may compete for votes. They may form and carry on their activities freely. They must respect the principles of national sovereignty and of democracy.

Title II

The President of the Republic.

Art. 5.—The President of the Republic shall see that the Constitution is respected. He shall ensure, by his arbitration, the regular functioning of the public powers, as well as the continuity of the State.

He shall be the guarantor of national independence, of the integrity of the territory, and of respect for Community agreements and for treaties.

Art. 6.—The President of the Republic shall be elected for seven years by an electoral college comprising the members of Parliament, of the General Councils and of the Assemblies of the Overseas Territories, as well as the elected representatives of the municipal councils.

These representatives shall be:

—the mayor for communes of fewer than 1,000 inhabitants;

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[1] Adopted by a Referendum on September 28, 1958. (This is popularly Known as the Constitution of the Fifth French Republic).

—the mayor and the first deputy mayor for communes of from 1,000 to 2,000 inhabitants;

—the mayor, first deputy mayor and a municipal councillor chosen according to the order of appearance on the council list for communes of from 2,001 to 2,500 inhabitants;

—the mayor, the two first deputy mayors for communes of from 2,501 to 3,000 inhabitants;

—the mayor, and the two first deputy mayors and three municipal councillors chosen according to the order of appearance on the council list for communes of from 3,001 to 6,000 inhabitants;

—the mayor, the two first deputy mayors and six municipal councillors chosen according to the order of appearance on the council list for communes of from 6,001 to 9,000 inhabitants;

—all the municipal councillors for communes of more than 9,000 inhabitants;

—in addition, for communes of more than 30,000 inhabitants, delegates appointed by the municipal council at the rate of one delegate for every 1,000 inhabitants above 30,000.

In the Overseas Territories of the Republic, the elected representatives of the councils of the administrative units shall also form part of the electoral college under the conditions to be determined by an organic law.

The participation of member States of the Community in the electoral college for the President of the Republic shall be determined by agreement between the Republic and the member States of the Community.

The procedure for implementing the present article shall be determined by an organic law.

Art. 7.—The President of the Republic shall be elected by an absolute majority on the first ballot. If this is not obtained, the President of the Republic shall be elected on a second ballot by a relative majority.

The voting shall be opened upon summons by the Government.

The election of the new President shall take place twenty days at the least and fifty days at the most before the expiration of the powers of the President in office.

In the event of a vacancy in the Presidency of the Republic, for any cause whatsoever, or in case of prevention officially noted by the Constitutional Council, to which the matter has been referred by the Government and which shall rule by an absolute majority of its members, the functions of the President of the Republic, with the exception of those provided for by Articles 11 and 12 below, shall be temporarily exercised by the President of the Senate. In the case of a vacancy or when the prevention is declared definitive by the Constitutional Council, the voting for the election of a new President shall take place, except in case of *force majeure* officially noted by the Constitutional Council, twenty days at the least and fifty days at the most after the beginning of the vacancy or the declaration of the definitive character of the prevention.

Art. 8.—The President of the Republic shall appoint the Premier. He shall terminate the functions of the Premier when the latter presents the resignation of the Government.

On the recommendations of the Premier, he shall appoint the other members of the Government and shall terminate their functions.

Art. 9.—The President of the Republic shall preside over the Council of Ministers.

Art. 10.—The President of the Republic shall promulgate the laws within fifteen days following the transmission to the Government of the finally adopted law.

He may, before the expiration of this time limit, ask Parliament for a reconsideration of the law or of certain of its articles. This reconsideration may not be refused.

Art. 11.—The President of the Republic on the proposal of the Government during [Parliamentary] sessions, or on joint motion of the two Assemblies published

in the *Journal Officiel,* may submit to a referendum, any bill dealing with the organization of the public powers, entailing approval of a Community agreement, or providing for authorization to ratify a treaty that, without being contrary to the Constitution, might affect the functioning of the institutions.

When the referendum decides in favour of the bill, the President of the Republic shall promulgate it within the time limit stipulated in the preceding article.

Art. 12.—The President of the Republic may, after consultation with the Premier and the Presidents of the Assemblies, declare the dissolution of the National Assembly.

General elections shall take place twenty days at the least and forty days at the most after the dissolution.

The National Assembly shall convene by right on the second Thursday following its election. It this meeting takes place between the periods provided for ordinary sessions, a session shall, by right, be opened for a fifteenday period.

There may be no further dissolution within a year following these elections.

Art. 13.—The President of the Republic shall sign the ordinances and decrees decided upon in the Council of Ministers.

He shall make appointments to the civil and military posts of the State.

Councillors of State, the Grand Chancellor of the Legion of Honour, Ambassadors and envoys extraordinary, Master Councillors of the Audit Office, prefects, representatives of the Government in the Overseas Territories, general officers, rectors of academies [regional divisions of the public educational system] and directors of central administrations shall be appointed in meetings of the Council of Ministers.

An organic law shall determine the other posts to be filled in meetings of the Council of Ministers, as well as the conditions under which the power of the President of the Republic to make appointments to office may be delegated by him to be exercised in his name.

Art. 14.—The President of the Republic shall accredit Ambassadors and envoys extra-ordinary to foreign Powers; foreign Ambassadors and envoys extraordinary shall be accredited to him.

Art. 15.—The President of the Republic shall be the commander of the armed forces. He shall preside over the higher councils and committees of national defence.

Art. 16.—When the institutions of the Republic, the independence of the nation, the integrity of its territory or the fulfilment of its international commitments are threatened in a grave and immediate manner and the regular functioning of the constitutional public powers is interrupted, the President of the Republic shall take the measures required by these circumstances, after official consultation with the Premier and the Presidents of the Assemblies, as well as with the Constitutional Council.

He shall inform the nation of these measures in a message.

These measures must be prompted by the desire to ensure to the constitutional public powers, in the shortest possible time, the means of accomplishing their mission. The Constitutional Council shall be consulted with regard to such measures.

Parliament shall meet by right.

The National Assembly may not be dissolved during the exercise of exceptional powers.

Art. 17.—The President of the Republic shall have the right of pardon.

Art. 18.—The President of the Republic shall communicate with the two Assemblies of Parliament by means of messages, which he shall cause to be read, and which shall not be the occasion for any debate.

Between sessions, the Parliament shall be specially convened for this purpose.

Art. 19.—The acts of the President of the Republic, other than those provided for under Articles 8 (first paragraph), 11, 12, 16, 18, 54, 56 and 61, shall be coun-

tersigned by the Premier, and should circumstances so require, by the appropriate ministers.

TITLE III

The Government.

Art. 20.—The Government shall determine and conduct the policy of the nation.

It shall have at its disposal the administration and the armed forces.

It shall be responsible to the Parliament under the conditions and according to the procedures stipulated in Articles 49 and 50.

Art. 21.—The Premier shall direct the operation of the Government. He shall be responsible for national defence. He shall ensure the execution of the laws. Subject to the provisions of Article 13, he shall have regulatory powers and shall make appointments to civil and military posts.

He may delegate certain of his powers to the ministers.

He shall replace, should the occasion arise, the President of the Republic as the Chairman of the councils and committees provided for under Article 15.

He may, in exceptional instances, replace him as the chairman of a meeting of the Council of Ministers by virtue of an explict delegation and for a specific agenda.

Art. 22.—The acts of the Premier shall be countersigned, when circumstances so require, by the ministers responsible for their execution.

Art. 23.—The functions of member of the Government shall be incompatible with the exercise of any parliamentary mandate, with the holding of any office, at the national level in business, professional or labour organizations, and with any public employment or professional activity.

A organic law shall determine the conditions under which the holders of such mandates, functions or employments shall be replaced.

The replacement of the members of Parliament shall take place in accordance with the provisions of Article 25.

TITLE IV

The Parliament.

Art. 24.—The Parliament shall comprise the National Assembly and the Senate.

The deputies to the National Assembly shall be elected by direct suffrage.

The Senate shall be elected by indirect suffrage. It shall ensure the representation of the territorial units of the Republic. Frenchmen living outside France shall be represented in the Senate.

Art. 25.—An organic law shall determine the term for which each Assembly is elected, the number of its members, their emoluments, the conditions of eligibility, and the system of ineligibilities and incompatibilities.

It shall likewise determine the conditions under which, in the case of a vacancy in either Assembly, persons shall be elected to replace the deputy or senator whose seat has been vacated until the holding of new complete or partial elections to the Assembly concerned.

Art. 26.—No member of Parliament may be prosecuted, sought, arrested, detained or tried as a result of the opinions or votes expressed by him in the exercise of his functions.

No member of Parliament may, during parliamentary session, be prosecuted or arrested for criminal or minor offences without the authorization of the Assembly of which he is a member except in the case of *flagrante delicto.*

When Parliament is not in session, no member of Parliament may be arrested without the authorization of the Secretariat of the Assembly of which he is a member, except in the case of *flagrante delicto,* of authorized prosecution or of final conviction.

The detention or prosecution of a member of Parliament shall be suspended if the Assembly of which he is a member so demands.

Art. 27.—Any compulsory vote shall be null and void.

The right to vote of the members of Parliament shall be personal.

The organic law may, under exceptional circumstances, authorize the delegation of a vote. In this case, no member may be delegated more than one vote.

Art. 28.—Parliament shall convene by right in two ordinary sessions a year.

The first session shall begin on the first Tuesday of October and shall end on the third Friday of December.

The second session shall open on the last Tuesday of April; it may not last longer than three months.

Art. 29.—Parliament shall convene in extraordinary session at the request of the Premier or of the majority of the members comprising the National Assembly, to consider a specific agenda.

When an extraordinary session is held at the request of the members of the National Assembly, the closure decree shall take effect as soon as the Parliament has exhausted the agenda for which it was called, and at the latest twelve days from the date of its meeting.

Only the Premier may ask for a new session before the end of the month following the closure decree.

Art. 30.—Apart from cases in which Parliament meets by right, extraordinary sessions shall be opened and closed by decree of the President of the Republic.

Art. 31.—The members of the Government shall have access to the two Assemblies. They shall be heard when they so request.

They may call for the assistance of commissioners of the government.

Art. 32.—The President of the National Assembly shall be elected for the duration of the legislature. The President of the Senate shall be elected after each partial re-election [of the Senate].

Art. 33.—The meetings of the two Assemblies shall be public. A verbatim report of the debates shall be published in the *Journal officiel.*

Each Assembly may sit in secret committee at the request of the Premier or of one-tenth of its members.

TITLE V

On the Relations Between Parliament and the Government.

Art. 34.—The law shall be voted by Parliament.

The law shall establish the regulations concerning:

—civil rights and the fundamental guarantees granted to the citizens for the exercise of their public liberties: the obligations imposed by the national defence upon the person and property of citizens:

—nationality, status and legal capacity of persons, marriage contracts, inheritance and gifts;

—determination of crimes and misdemeanours as well as the penalties imposed therefor; criminal procedure; amnesty; the creation of new juridical systems and the status of magistrates:

—the basis, the rate and the methods of collecting taxes of all types; the issuance of currency.

The law likewise shall determine the regulations concerning:

—the electoral system of the Parliamentary Assemblies and the local assemblies;

—the establishment of categories of public institutions;

—the fundamental guarantees granted to civil and military personnel employed by the State:

—the nationalization of enterprises and the transfers of the property of enterprises from the public to the private sector.

The law shall determine the fundamental principles of:

—the general organization of national defence;

—the free administration of local communities, of their competencies and their resources;

—education;
—property rights, civil and commercial obligations;
—legislation pertaining to employment, unions and social security.

The financial laws shall determine financial resources and obligations of the State under the conditions and with the reservations to be provided for by an organic law.

Laws pertaining to national planning shall determine the objectives of the economic and social action of the State.

The provisions of the present article may be detailed and supplemented by an organic law.

Art. 35.—Parliament shall authorize the declaration of war.

Art. 36.—Martial law shall be decreed at a meeting of the Council of Ministers.

Its prorogation beyond twelve days may be authorized only by Parliament.

Art. 37.—Matters other than those that fall within the domain of law shall be of a regulatory character.

Legislative texts concerning these matters may be modified by decrees issued after consultation with the Council of State. Those legislative texts which shall be passed after the entry into force of the present Constitution shall be modified by decree only if the Constitutional Council has stated that they have a regulatory character as defined in the preceding paragraph.

Art. 38.—The Government may, in order to carry out its programme, ask Parliament for authorization to take, through ordinances, during a limited period, measures that are normally within the domain of law.

The ordinances shall be enacted in meetings of Ministers after consultation with the Council of State. They shall come into force upon their publication but shall become null and void if the bill for their ratification is not submitted to Parliament before the date set by the enabling act.

At the expiration of the time limit referred to in the first paragraph of the present article, the ordinances may be modified only by the law in those matters which are within the legislative domain.

Art. 39.—The Premier and the members of Parliament alike shall have the right to initiate legislation.

Government bills shall be discussed in the Council of Ministers after consultation with the Council of State and shall be filed with the secretariat of one of the two Assemblies. Finance bills shall be submitted first to the National Assembly.

Art. 40.—The bills and amendments introduced by the members of Parliament shall be inadmissible when their adoption would have as a consequence either a diminution of public financial resources or the creation or increase of public expenditure.

Art. 41.—If it appears in the course of the legislative procedure that a Parliamentary bill or an amendment is not within the domain of law or is contrary to a delegation granted by virtue of Article 38, the Government may declare its inadmissibility.

In case of disagreement between the Government and the President of the Assembly concerned, the Constitutional Council upon the request of one or the other, shall rule within a time limit of eight days.

Art. 42.—The discussion of bills shall pertain, in the first Assembly to which they have been referred, to the text presented by the Government.

An Assembly given a text passed by the other Assembly shall deliberate on the text that is transmitted to it.

Art. 43.—Government and Parliamentary bills shall, at the request of the Government or of the Assembly concerned, be sent for study to committees specially designated for this purpose.

Government and Parliamentary bills for which such a request has not been made shall be sent to one of the permanent committees, the number of which is limited to six in each Assembly.

Art. 44.—Members of Parliament and of the Government have the right of amendment.

After the opening of the debate, the Government may oppose the examination of any amendment which has not previously been submitted to committee.

If the Government so requests, the Assembly concerned shall decide, by a single vote, on all or part of the text under discussion, retaining only the amendments proposed or accepted by the Government.

Art. 45.—Every Government of Parliamentary bill shall be examined successively in the two Assemblies of Parliament with a view to the adoption of an identical text.

When, as a result of disagreement between the two Assemblies, it has been impossible to adopt a Government or Parliamentary bill after two readings by each Assembly, or, if the Government has declared the matter urgent, after a single reading by each of them, the Premier shall have the right to bring about a meeting of a joint committee composed of an equal number from both Assemblies charged with the task of proposing a text on the matters still under discussion.

The text elaborated by the joint committee may be submitted by the Government for approval of the two Assemblies. No amendment shall be admissible except by agreement with the Government.

If the joint commitee does not succeed in adopting a common text, or if this text is not adopted under the conditions set forth in the preceeding paragraph the Government may, after a new reading by the National Assembly and by the Senate, ask the National Assembly to rule definitively. In this case, the National Assembly may reconsider either the text elaborated by the joint committee, or the last text voted by it, modified when circumstances so require by one or several of the amendments adopted by the Senate.

Art. 46.—The laws that the Constitution characterizes as organic shall be passed and amended under the following conditions:

A Government or Parliamentary bill shall be submitted to the deliberation and to the vote of the first Assembly notified only at the expiration of a period of fifteen days following its introduction.

The procedure of Article 45 shall be applicable. Nevertheless, lacking an agreement between the two Assemblies, the text may be adopted by the National Assembly on final reading only by an absolute majority of its members.

The organic laws relative to the Senate must be passed in the same manner by the two Assemblies.

The organic laws may be promulgated only after a declaration by the Constitutional Council on their constitutionality.

Art. 47.—The Parliament shall pass finance bills under the conditions to be stipulated by an organic law.

Should the National Assembly fail to reach a decision on first reading within a time limit of forty days after a bill has been filed, the Government shall refer it to the Senate, which must rule within a time limit of fifteen days. The procedure set forth in Article 45 shall then be followed.

Should Parliament fail to reach a decision within a time limit of seventy days, the provisions of the bill may be enforced by ordinance.

Should the finance bill establishing the resources and expenditures of a fiscal year not be filed in time for it to be promulgated before the beginning of that fiscal year, the Government shall urgently request Parliament for the authorization to collect the taxes and shall make available by decree the funds needed to meet the Government commitments already voted.

The time limits stipulated in the present article shall be suspended when the Parliament is not in session.

The Audit Office shall assist Parliament and the Government in supervising the implementation of the finance laws.

Art. 48.—The discussion of the bills filed or agreed upon by the Government shall have priority on the agenda of the Assemblies in the order determined by the Government.

One meeting a week shall be reserved, by priority, for questions asked by members of Parliament and for answers by the Government.

Art. 49.—The Premier, after deliberation by the Council of Ministers, shall make the Government responsible, before the National Assembly, for its programme or, should the occasion arise, for a declaration of general policy.

When the National Assembly adopts a motion of censure, the responsibility of the Government shall thereby be questioned. Such a motion is admissible only if it is signed by at least one-tenth of the members of the National Assembly. The vote may not take place before forty-eight hours after the motion has been filed. Only the votes that are favourable to a motion of censure shall be counted; the motion of sensure may be adopted only by a majority of the members comprising the Assembly. Should the motion of censure be rejected, its signatories may not introduce another motion of censure during the same session, except in the case provided for in the paragraph below.

The Premier may, after deliberation by the Council of Ministers, make the Government responsible before the National Assembly for the adoption of a given text. In this case, this text shall be considered as adopted, unless a motion of censure, filed during the twenty-four hours that follow, is carried under the conditions provided for in the preceding paragraph.

The Premier shall have the right to request the Senate for approval of a declaration of general policy.

Art. 50.—When the National Assembly adopts a motion of censure, or when it disapproves the programme or a declaration of general policy of the Government, the Premier must hand the resignation of the Government to the President of the Republic.

Art. 51.—The closure of ordinary or extraordinary sessions shall by right be delayed, should the occasion arise, in order to permit the application of the provision of Article 49.

TITLE VI

On Treaties and International Agreements.

Art. 52.—The President of the Republic shall negotiate and ratify treaties.

He shall be informed of all negotiations leading to the conclusion of an international agreement not subject to ratification.

Art. 53.—Peace treaties, commercial treaties, treaties or agreements relative to international organization, those that commit the finances of the State, those that modify provisions of a legislative nature, those relative to the status of persons, those that call for the cession, exchange or addition of territory may be ratified or approved only by a law.

They shall come into effect only after having been ratified or approved.

No cession, no exchange, no addition of territory shall be valid without the consent of the populations concerned.

Art. 54.—If the Constitutional Council, the matter having been referred to it by the President of the Republic, by the Premier, or by the President of one or the other Assembly, shall declare that an international commitment contains a clause contrary to the Constitution, the authorization to ratify or approve this commitment may be given only after amendment of the Constitution.

Art. 55.—Treaties or agreements duly ratified or approved shall upon their publication, have an authority superior to that of laws, subject for each agreement or treaty to its application by the other party.

TITLE VII

The Constitutional Council.

Art. 56.—The Constitutional Council shall consist of nine members, whose mandates shall last nine years and shall not be renewable. One-third of the membership of the Constitutional Council shall be renewed every three years.

Three of its members shall be appointed by the President of the Republic, three by the President of the National Assembly, three by the President of the Senate.

In addition to the nine members provided for above, former Presidents of the Republic shall be members ex officio for the life of the Constitutional Council.

The President shall be appointed by the President of the Republic. He shall have the casting vote in case of a tie.

Art. 57.—The office of member of the Constitutional Council shall be incompatible with that of minister or member of Parliament. Other incompatibilities shall be determined by an organic law.

Art. 58.—The Constitutional Council shall ensure the regularity of the election of the President of the Republic.

It shall examine complaints and shall announce the results of the vote.

Art. 59.—The Constitutional Council shall give a ruling, in the case of disagreement, on the regularity of the election of deputies and senators.

Art. 60.—The Constitutional Council shall ensure the regularity of the referendum procedure and shall announce the results thereof.

Art. 61.—Organic laws, before their promulgation, and regulations of the parliamentary Assemblies, before they come into application, must be submitted to the Constitutional Council, which shall give its ruling on their constitutionality.

To the same end, laws may be submitted to the Constitutional Council, before their promulgation, by the President of the Republic, the Premier or the President of one or the other Assembly.

In the cases provided for by the two preceding paragraphs, the Constitutional Council must give its ruling within a time limit of one month. Nevertheless, at the request of the Government, in case of urgency, this period shall be reduced to eight days.

In these same cases, reference to the Constitutional Council shall suspend the time limit for promulgation.

Art. 62.—A provision declared unconstitutional may not be promulgated or implemented.

The decisions of the Constitutional Council are not subject to appeal to any jurisdiction whatsoever. They must be recognized by the public powers and by all administrative and judicial authorities.

Art. 63.—An organic law shall determine the rules of organization and functioning of the Constitutional Council, the procedure to be followed before it, and in particular of the periods of time allowed for laying disputes before it.

TITLE VIII

On the Judicial Authority.

Art. 64.—The President of Republic shall be the guarantor of the independence of the judicial authority.

He shall be assisted by the High Council of the Judiciary.

An organic law shall determine the status of magistrates.

Magistrates may not be removed from office.

Art. 65.—The High Council of the Judiciary shall be presided over by the President of the Republic. The Minister of Justice shall be its Vice-President ex-officio. He may preside in place of the President of the Republic.

The High Council shall, in addition, include nine members appointed by the President of the Republic in conformity with the conditions to be determined by an organic law.

The High Council of the Judiciary shall present nominations for judges of the Court of Cassation (Supreme Court of Appeal) and for First Presidents of courts of appeal. It shall give its opinion under the conditions to be determined by an organic law on proposals of the Minister of Justice relative to the nominations of the other judges. It shall be consulted on questions of pardon under conditions to be determined by an organic law.

The High Council of the Judiciary shall act as a disciplinary council for judges. In such cases, it shall be presided over by the Frst President of the Court of Cassation.

Art. 66.—No one may be arbitrarily detained.

The judicial authority, guardian of individual liberty, shall ensure the respect of this principle under the conditions stipulated by law.

TITLE IX

The High Court of Justice.

Art. 67.—A High Court of Justice shall be instituted.

It shall be composed, in equal numbers, of members elected from among their membership by the National Assembly and by the Senate after each general or partial election to these Assemblies. It shall elect its President from among its members.

An organic law shall determine the composition of the High Court, its rules, as well as the procedure to be applied before it.

Art. 68.—The President of the Republic shall not be held accountable for actions performed in the exercise of his office except in the case of high treason. He may be indicted only by the two Assemblies ruling by identical vote in open balloting and by an absolute majority of the members of the said Assemblies. He shall be tried by the High Court of Justice.

The members of the Government shall be criminally liable for actions performed in the exercise of their office and rated as crimes or misdemeanours at the time they were committed. The procedure defined above shall be applied to them, as well as to their accomplices, in case of a conspiracy against the security of the State. In the cases provided for by the present paragraph, the High Court shall be bound by the definition of crimes and misdemeanours, as well as by the determination of penalties, as they are established by the criminal laws in force when the acts are committed.

TITLE X

The Economic & Social Council.

Art. 69.—The Economic and Social Council upon reference by the Government, shall give its opinion on the Government bills, ordinances and decrees, as well as on the Parliamentary bills submitted to it.

A member of the Economic and Social Council may be designated by the latter to present before the Parliamentary Assemblies the opinion of the Council on the Government or Parliamentary bills that have been submitted to it.

Art. 70.—The Economic and Social Council may likewise be consulted by the Government on any problem of an economic or social character of interest to the Republic or to the Community. Any plan, or any bill dealing with a plan, of an economic or social character shall be submitted to it for its advice.

Art. 71.—The composition of the Economic and Social Council and its rules of procedure shall be determined by an organic law.

TITLE XI

On Territorial Units.

Art. 72.—The territorial units of the Republic shall be the communes, the Departments, and the Overseas Territories. Any other territorial unit shall be created by law.

These units shall be free to govern themselves through elected councils and under the conditions stipulated by law.

In the Departments and the Territories, the Delegate of the Government shall be responsible for the national interests, for administrative supervision, and for seeing that the laws are respected.

Art. 73.—Measures of adjustment required by the particular situation of the Overseas Departments may be taken with regard to the legislative system and administrative organization of those Departments.

Art. 74.—The Overseas Territories of the Republic shall have a particular organization, taking account of their own interests within the general interests of the Republic. This organization shall be defined and modified by law after consultation with the Territorial Assembly concerned.

Art. 75.—Citizens of the Republic who do not have ordinary civil status, the only status referred to in Article 34, may keep their personal status as long as they have not renounced it.

Art. 76.—The Overseas Territories may retain their status within the Republic.

If they express the desire to do so by decision of their Territorial Assemblies taken within the time limit set in the first paragraph of Article 91, they shall become either Overseas Departments of the Republic or, organized into groups among themselves or singly, member States of the Community.

TITLE XII

On the Community.

Art. 77.—In the Community instituted by the present Constitution, the States shall enjoy autonomy; they shall administer themselves and, democratically and freely, manage their own affairs.

There shall be only one citizenship in the Community.

All citizens shall be equal before the law, whatever their origin, their race and their religion. They shall have the same duties.

Art. 78.—The Community shall have jurisdiction over foreign policy, defence, the monetary system, common economic and financial policy, as well as the policy on strategic raw materials.

In addition, except by special agreement, control of justice, higher education, the general organization of external and common transport, and telecommunications shall be within its jurisdiction.

Special Agreements may establish other common jurisdictions or regulate the transfer of jurisdiction from the Community to one of its members.

Art. 79.—The member States shall benefit from the provisions of Article 77 as soon as they have exercised the choice provided for in Article 76.

Until the measures required for implementation of the present title go into force, matters within the common jurisdiction shall be regulated by the Republic.

Art. 80.—The President of the Republic shall preside over and represent the Community.

The Community shall have, as organs, an Executive Council, a Senate and a Court of Arbitration.

Art. 81.—The member States of the Community shall participate in the election of the President according to the conditions stipulated in Article 6.

The President of the Republic, in his capacity as President of the Community, shall be represented in each State of the Community.

Art. 82.—The Executive Council of the Community shall be presided over by the President of the Community. It shall consist of the Premier of the Republic, the heads of Government of each of the member States of the Community, and of the ministers responsible for the common affairs of the Community.

The Executive Council shall organize the co-operation of members of the Community at Government and administrative levels.

The organization and procedure of the Executive Council shall be determined by an organic law.

Art. 83.—The Senate of the Community shall be composed of delegates whom the Parliament of the Republic and the legislative assemblies of the other members of the Community shall choose from among their own membership. The number of delegates of each State shall be determined by taking into account its population and the responsibilities it assumes in the Community.

The Senate of the Community shall hold two sessions a year, which shall be opened and closed by the President of the Community and may not last more than one month each.

The Senate of the Community, upon reference by the President of the Community, shall deliberate on the common economic and financial policy, before laws in these matters are voted upon by the Parliament of the Republic, and, should circumstances so require, by the legislative assemblies of the other members of the Community.

The Senate of the Community shall examine the acts and treaties or international agreements which are specified in Articles 35 and 53 and which commit the Community.

The Senate of the Community shall take enforceable decisions in the domains in which it has received delegation of power from the legislative assemblies of the members of the Community. These decisions shall be promulgated in the same form as the law in the territory of each of the States concerned.

An organic law shall determine the composition of the Senate and its rules of procedure.

Art. 84.—A Court of Arbitration of the Community shall rule on litigations occurring among members of the Community.

Its composition and its competence shall be determined by an organic law.

Art. 85.—By derogation from the procedure provided for in Article 89, the provisions of the present title that concern the functioning of the common institutions shall be amendable by identical laws passed by the Parliament of the Republic and by the Senate of the Community.

Art. 86.—A change of status of a member State of the Community may be requested either by the Republic, or by a resolution of the legislative assembly of the State concerned confirmed by a local referendum, the organization and supervision of which shall be ensured by the institutions of the Community. The modalities of this change shall be determined by an agreement approved by the Parliament of the Republic and the legislative assembly concerned.

Under the same conditions, a member State of the Community may become independent. It shall thereby cease to belong to the Community.

Art. 87.—The particular agreements made for the implementation of the present title shall be approved by the Parliament of the Republic and the legislative assembly concerned.

TITLE XIII

On Agreements of Association.

Art. 88.—The Republic or the Community may make agreements with States that wish to associate themselves with the Community in order to develop their own civilization.

TITLE XIV

On Amendment.

Art. 89.—The initiative for amending the Constitution shall belong both to the President of the Republic on the proposal of the Premier and to the members of Parliament.

The Government of Parliamentary bill for amendment must be passed by the two Assemblies in identical terms. The amendment shall become definitive after approval by a referendum.

Nevertheless, the proposed amendment shall not be submitted to a referendum when the President of the Republic decides to submit it to Parliament convened in Congress; in this case, the proposed amendment shall be approved only if it is accepted by a three-fifths majority of the votes cast. The Secretariat of the Congress shall be that of the National Assembly.

No amendment procedure may be undertaken or followed if it is prejudicial to the integrity of the territory.

The republican form of government shall not be the object of an amendment.

TITLE XV

Temporary Provisions.

Art. 90.—The ordinary session of Parliament is suspended. The mandate of the members of the present National Assembly shall expire on the day that the Assembly elected under the present Constitution is convened.

Until this meeting, the Government alone shall have the authority to convene Parliament.

The mandate of the members of the Assembly of the French Union shall expire at the same time as the mandate of the members of the present National Assembly.

Art. 91.—The institutions of the Republic, provided for by the present Constitution, shall be established within four months, counting from the time of its promulgation.

This period shall be extended to six months for the institutions of the Community.

The powers of the President of the Republic now in office shall expire only when the results of the election provided for in Articles 6 and 7 of the present Constitution are proclaimed.

The member States of the Community shall participate in this first election under the conditions derived from their status at the date of the promulgation of the Constitution.

The established authorities shall continue in the exercise of their functions in these States according to the laws and regulations applicable when the Constitutions comes into force, until the establishment of the authorities provided for by their new regimes.

Until its definitive constitution, the Senate shall consist of the present members of the Council of the Republic. The organic laws that shall determine the definitive constitutions of the Senate must be passed before July 31, 1959.

The powers conferred on the Constitutional Council by Articles 58 and 59 of the Constitution shall be exercised, until the establishment of this Council, by a committee composed of the Vice-President of the Council of State, as Chairman, the First President of the Court of Cassation, and the First President of the Audit Office.

The peoples of the member States of the Community shall continue to be represented in Parliament until the entry into force of the measures necessary to the implementation of Title XII.

Art. 92.—The legislative measures necessary to the establishment of the institutions and, until they are established, to the functioning of the public powers, shall be taken in meetings of the Council of Ministers, after consultation with the Council of State, in the form of ordinances having the force of law.

During the time limit set in the first paragraph of Article 91, the Government shall be authorized to determine, by ordinances having the force of law and passed in the same way, the system of elections to the Assemblies provided for by the Constitution.

During the same period and under the same conditions, the Government may also adopt measures, in all domains, which it may deem necessary to the life of the nation, the protection of citizens or the safeguarding of liberties.

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PART III

CONSTITUTION AMENDMENT ACTS

I. THE CONSTITUTION (FIRST AMENDMENT) ACT, 1951

An Act to amend the Constitution of India.

[18*th June*, 1951.]

BE it enacted by Parliament as follows :—

Short title.

1. This Act may be called the Constitution (First Amendment) Act, 1951.

Amendment of article 15.

2. To article 15 of the Constitution, the following clause shall be added:—

"(4) Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes."

Amendment of article 19 and validation of certain laws.

3. (1) In article 19 of the Constitution,—

(*a*) for clause (2), the following clause shall be substituted, and the said clause shall be deemed always to have been enacted in the following form, namely:—

"(2) Nothing in sub-clause (*a*) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence."

(*b*) in clause (6), for the words beginning with the words "nothing in the said sub-clause" and ending with the words "occupation, trade or business", the following shall be substituted, namely:—

"nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to,—

(*i*) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or

(*ii*) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise."

(2) No law in force in the territory of India immediately before the commencement of the Constitution which is consistent with the provisions of article 19 of the Constitution as amended by sub-section (1) of this section shall be deemed to be void, or ever to have become void, on the ground only that, being a law which takes away or abridges the right conferred by sub-clause (*a*) of clause (1) of the said article, its operation was not saved by clause (2) of that article as originally enacted.

Explanation.—In this sub-section, the expression "law in force" has the same meaning as in clause (1) of article 13 of the Constitution.

Insertion of new article 31A.

4. After article 31 of the Constitution, the following article shall be inserted, and shall be deemed always to have been inserted, namely:—

"31A. *Saving of laws providing for acquisition of estates, etc.*—(1) Notwithstanding anything in the foregoing provisions of this Part, no law providing for the acquisition by the State of any estate or of any rights therein or for the extinguishment or modification of any such rights shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by, any provisions of this Part:

Provided that where such law is a law made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent.

(2) In this article,—

(*a*) the expression "estate" shall, in relation to any local area, have the same meaning as that expression or its local equivalent has in the existing law relating to land tenures in force in that area, and shall also include any *jagir, inam* or *muafi* or other similar grant:

(b) the expression "rights", in relation to an estate shall include any rights vesting in a proprietor, sub-proprietor, under-proprietor, tenure-holder or other intermediary and any rights or privileges in respect of land revenue."

Insertion of new article 31B.

5. After article 31A of the Constitution as inserted by section 4, the following article shall be inserted, namely:—

"31B. *Validation of certain Acts and Regulations.*—Without prejudice to the generality of the provisions contained in article 31A, none of the Acts and Regulations specified in the Ninth Schedule nor any of the provisions thereof shall be deemed to be void, or ever to have become void, on the ground that such Act, Regulation or provision is inconsistent with, or takes away or abridges any of the rights conferred by, any provisions of this Part, and notwithstanding any judgment, decree or order of any court or tribunal to the contrary, each of the said Acts and Regulations shall, subject to the power of any competent Legislature to repeal or amend it, continue in force."

Amendment of article 85.

6. For article 85 of the Constitution, the following article shall be substituted, namely:—

"85. *Sessions of Parliament, prorogation and dissolution.*—(1) The President shall from time to time summon each House of Parliament to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

(2) The President may from time to time—

(*a*) prorogue the Houses or either House;

(*b*) dissolve the House of the People."

Amendment of article 87.

7. In article 87 of the Constitution,—

(1) in clause (1), for the words "every session" the words "the first session after each general election to the House of the People and at the commencement of the first session of each year" shall be substituted;

(2) in clause (2), the words "and for the precedence of such discussion over other business of the House" shall be omitted.

Amendment of article 174.

8. For article 174 of the Constitution, the following article shall be substituted, namely:—

"174. *Sessions of the State Legislature, prorogation and dissolution.*—(1) The Governor shall from time to time summon the House or each House of the Legislature of the State to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

(2) The Governor may from time to time

(*a*) prorogue the Houses or either House;

(*b*) dissolve the Legislative Assembly."

Amendment of article 176.

9. In article 176 of the Constitution,—

(1) in clause (1), for the words "every session" the words "the first session after each general election to the Legislative Assembly and at the commencement of the first session of each year" shall be substituted;

(2) in clause (2), the words "and for the precedence of such discussion over other business of the House" shall be omitted

Amendment of article 341.

10. In clause (1) of article 341 of the Constitution, for the words "may, after consultation with the Governor or Rajpramukh of State," the words "may with respect to any State, and where it is a State specified in Part A or Part B of the First Schedule, after consultation with the Governor or Rajpramukh thereof," shall be substituted.

Amendment of article 342.

11. In clause (1) of article 342 of the Constitution, for the words "may, after consultation with the Governor or Rajpramukh of State," the words "may with respect to any State, and where it is a State speci-

fed in Part A or Part B of the First Schedule, after consultation with the Governor or Rajpramukh thereof," shall be substituted.

Amendment of article 372.

12. In sub-clause (*a*) of clause (3) of article 372 of the Constitution, for the words "two years" the words "three years" shall be substituted.

Amendment of article 376.

13. At the end of clause (1) of article 376 of the Constitution, the following shall be added, namely:—

"Any such Judge shall, notwithstanding that he is not a citizen of India, be eligible for appointment as Chief Justice of such High Court, or as Chief Justice or other Judge of any other High Court."

Addition of Ninth Schedule.

14. After the Eighth Schedule to the Constitution, the following Schedule shall be added, namely:—

"NINTH SCHEDULE

[Article 31B]

1. The Bihar Land Reforms Act, 1950 (Bihar Act XXX of 1950).
2. The Bombay Tenancy and Agricultural Lands Act, 1948 (Bombay Act LXVII of 1948).
3. The Bombay Maleki Tenure Abolition Act, 1949 (Bombay Act LXI of 1949).
4. The Bombay Taluqdari Tenure Abolition Act, 1949 (Bombay Act LXII of 1949).
5. The Panch Mahals Mehwassi Tenure Abolition Act, 1949 (Bombay Act LXIII of 1949).
6. The Bombay Khoti Abolition Act, 1950 (Bombay Act VI of 1950).
7. The Bombay Paragana and Kulkarni Watan Abolition Act, 1950 Bombay Act LX of 1950).
8. The Madhya Pradesh Abolition of Proprietary Rights (Estates Mahals, Alienated Lands) Act, 1950 (Madhya Pradesh Act I of 1951).
9. The Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948 (Madras Act XXVI of 1948).
10. The Madras Estates (Abolition and Conversion into Ryotwari) Amendment Act, 1950 (Madsas Act I of 1950).
11. The Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 (Uttar Pradtsh Act I of 1951).
12. The Hyderabad (Abolition of Jagirs) Regulation, 1358F. (No. LXIX of 1358, Fasli).
13. The Hyderabad Jagirs (Commutation) Regulation, 1359F. (No XXV of 1359, Fasli)."

II. THE CONSTITUTION (SECOND AMENDMENT) ACT, 1952

An Act further to amend the Constitution of India.

[1*st May*, 1953.]

BE it enacted by Parliament as follows:—

Short title.

1. This Act may be called the Constitution (Second Amendment) Act, 1952.

Amendment of article 81.

2. In sub-clause (*b*) of clause (1) of article 81 of the Constitution, the words and figures "not less than one member for every 750,000 of the population and" shall be omitted.

III. THE CONSTITUTION (THIRD AMENDMENT) ACT, 1954

An Act further to amend the Constitution of India.

[22*nd February*, 1955]

BE it enacted by Parliament in the Fifth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Third Amendment) Act, 1954.

Amendment of the Seventh Schedule.

2. In the Seventh Schedule to the Constitution for entry 33 of List III, the following entry shall be substituted, namely:—

"33. Trade and commerce in, and the production, supply and distribution of,—

(*a*) the products of any industry where the control of such industry by the Union is declared by Parliament by law to be expedient in the public interest, and imported goods of the same kind as such products;

(*b*) foodstuffs, including edible oilseeds and oils;

(*c*) cattle fodder, including oilcakes and other concentrates;

(*d*) raw cotton, whether ginned or unginned, and cotton seed; and

(*e*) raw jute."

IV. THE CONSTITUTION (FOURTH AMENDMENT) ACT, 1955

An Act further to amend the Constitution of India.

[*27th April*, 1955.]

BE it enacted by Parliament in the Sixth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Fourth Amendment) Act, 1955.

Amendment of article 31.

2. In article 31 of the Constitution, for clause (2), the following clauses shall be substituted, namely:—

"(2) No property shall be compulsorily acquired or requisitioned save for a public purpose and save by authority of a law which provides for compensation for the property so acquired or requisitioned and either fixes the amount of the compensation or specifies the principles on which, and the manner in which, the compensation is to be determined and given; and no such law shall be called in question in any court on the ground that the compensation provided by that law is not adequate.

(2A) Where a law does not provide for the transfer of the ownership or right to possession of any property to the State or to a corporation owned or controlled by the State, it shall not be deemed to provide for the compulsory acquisition or requisitioning of property, notwithstanding that it deprives any person of his property."

Amendment of article 31A.

3. In article 31A of the Constitution,—

(*a*) for clause (1), the following clause shall be, and shall be deemed always to have been, substituted, namely:—

"(1) Notwithstanding anything contained in article 13, no law providing for—

(*a*) the acquisition by the State of any estate or of any rights therein or the extinguishment or modification of any such rights, or

(b) the taking over of the management of any property by the State for a limited period either in the public interest or in order to secure the proper management of the property, or

(*c*) the amalgamation of two or more corporations either in the public interest or in order to secure the proper management of any of the corporations, or

(*d*) the extinguishment or modification of any rights of managing agents, secretaries and treasurers, managing directors, directors or managers of corporations, or of any voting rights of shareholders thereof, or

(*e*) the extinguishment or modification of any rights accruing by virtue of any agreement, lease or licence for the purpose of searching for, or winning, any mineral or mineral oil,

or the premature termination or cancellation of any such agreement, lease or licence.

shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by article 14, article 19 or article 31:

Provided that where such law is a law made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent."; and

(*a*) in clause (2),—

(*i*) in sub-clause (*a*) after the word "grant", the words "and in the States of Madras and Travancore-Cochin, any *janmam* right" shall be, and shall be deemed always to have been, inserted; and

(*ii*) in sub-clause (*b*), after the word "tenure-holder", the words "*raiyat, under-raiyat*" shall be, and shall be deemed always to have been, inserted.

Substitution of new article for article 305.

4. For article 305 of the Constitution the following article shall be substituted, namely:—

"305. *Saving of existing laws and laws providing for State monopolies.*—Nothing in articles 301 and 303 shall affect the provisions of any existing law except in so far as the President may be order otherwise direct; and nothing in article 301 shall affect the operation of any law made before the commencement of the Constitution (Fourth Amendment) Act, 1955, in so far as it relates to, or prevent Parliament or the Legislature of a State from making any law relating to, any such matter as is referred to in sub-clause (*ii*) of clause (6) of article 19."

Amendment of the Ninth Schedule.

5. In the Ninth Schedule to the Constitution, after entry 13, the following entries shall be added, namely:—

"14. The Bihar Displaced Persons Rehabilitation (Acquisition of Land) Act, 1950 (Bihar Act XXXVIII of 1950).

15. Tht United Provinces Land Acquisition (Rehabilitation of Refugees) Act, 1948 (U. P. Act XXVI of 1948).

16. The Resettlement of Displaced Persons (Land Acquisition) Act, 1948 (Act LX of 1948).

17. Sections 52A to 52G of the Insurance Act, 1938 (Act IV of 1938), as inserted by section 42 of the Insurance (Amendment) Act, 1950 (Act XLVII of 1950).

18. The Railway Companies (Emergency Provisions) Act, 1951 (Act LI of 1951).

19. Chapter III-A of the Industries (Development and Regulation) Act, 1951 (Act LXV of 1951), as inserted by section 13 of the Industries (Development and Regulation) Amendment Act, 1953 (Act XXVI of 1953).

20. The West Bengal Land Development and Planning Act, 1948 (West Bengal Act XXI of 1948), as amended by West Bengal Act XXIX of 1951."

V. THE CONSTITUTION (FIFTH AMENDMENT) ACT, 1955

An Act further to amend the Constitution of India.

[*24th December*, 1955.]

BE it enacted by Parliament in the Sixth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Fifth Amendment) Act, 1955.

Amendment of article 3.

2. In article 3 of the Constitution, for the proviso, the following proviso shall be substituted, namely:—

"Provided that no Bill for the purpose shall be introduced in either House of Parliament except on the recommtndation of the President and unless, where the proposal contained in the Bill affects the area, boundaries or name of any of the States specified in Part A or Part B of the First Schedule, the Bill has been referred by the President to the Legislature of that State for expressing its views thereon within such period as may be specified in the reference or within such further period as the President may allow and the period so specified or allowed has expired."

VI. THE CONSTITUTION (SIXTH AMENDMENT) ACT, 1956

An Act further to amend the Constitution of India.

[11*th September*, 1956.]

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Sixth Amendment) Act, 1956.

Amendment of the Seventh Schedule.

2. In the Seventh Schedule to the Constitution,—

(*a*) in the Union List, after entry 92, the following entry shall be inserted, namely:—

"92A. Taxes on the sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce"; and

(*b*) in the State List, for entry 54, the following entry shall be substituted, namely:—

"54. Taxes on the sale or purchase of goods other than newspapers, subject to the provisions of entry 92A of List I."

Amendment of article 269.

3. In article 269 of the Constitution,—

(*a*) in clause (1), after sub-clause (f), the following sub-clause shall be inserted, namely:—

"(*g*) taxes on the sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce"; and

(*b*) after clause (2), the following clause shall be inserted, namely:—

"(3) Parliament may by law formulate principles for determining when a sale or purchase of goods takes place in the course of inter-State trade or commerce."

Amendment of article 286.

4. In article 286 of the Constitution,—

(*a*) in clause (1), the *Explanation* shall be omitted; and

(*b*) for clauses (2) and (3), the following clauses shall be substituted, namely:—

"(2) Parliament may by law formulate principles for determining when a sale or purchase of goods takes place in any of the ways mentioned in clause (1).

(3) Any law of a State shall, in so far as it imposes, or authorises the imposition of, a tax on the sale or purchase of goods declared by Parliament by law to be of special importance in inter-State trade or commerce, be subject to such restrictions and conditions in regard to the system of levy, rates and other incidents of the tax as Parliament may by law specify."

VII. THE CONSTITUTION (SEVENTH AMENDMENT) ACT, 1956

An Act further to amend the Constitution of India.

[19*th October,* 1956.]

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Constitution (Seventh Amendment) Act, 1956.

(2) It shall come into force on the 1st day of November, 1956.

Amendment of article 1 and First Schedule.

2. (1) In article 1 of the Constitution,—

(*a*) for clause (2), the following clause shall be substituted namely:—

"(2) The States and the territories thereof shall be as specified in the First Schedule"; and

(*b*) in clause (3), for sub-clause (*b*), the following sub-clause shall be substituted, namely:—

"(*b*) the Union territories specified in the First Schedule; and"

(2) For the First Schedule to the Constitution as amended by the States Reorganisation Act, 1956, and the Bihar and West Bengal (Transfer of Territories) Act, 1956, the following Schedule shall be substituted namely:—

"FIRST SCHEDULE

[Articles 1 and 4]

I. THE STATES

Name	*Territories*
1. Andhra Pradesh	... The territories specified in sub-section (1) of section 3 of the Andhra State Act, 1953 and the territories specified in sub-section (1) of section 3 of the State Reorganisation Act, 1956.
2. Assam	... The territories which immediately before the commencement of this Constitution were comprised in the Province of Assam, the Khasi States and the Assam Tribal Areas, but excluding the territories specified in the Schedule to the Assam (Alteration of Boundaries) Act, 1951.
3. Bihar	... The territories which immediately before the commencement of this Constitution were either comprised in the Province of Bihar or were being administered as if they formed part of that Province, but excluding the territories specified in sub-section (1) of section 3 of the Bihar and West Bengal (Transfer of Territories) Act, 1956.
4. Bombay	... The territories specified in sub-section (1) of section 8 of the States Reorganisation Act, 1956.
5. Kerala	... The territories specified in sub-section (1) of section 5 of the States Reorganisation Act, 1956.
6. Madhya Pradesh	... The territories specified in sub-section (1) of section 9 of the States Reorganisation Act, 1956.

Name		*Territories*
7. Madras	...	The territories which immediately before the commencement of this Constitution were either comprised in the Province of Madras or were being administered as if they formed part of that Province and the territories specified in section 4 of the States Reorganisation Act, 1956, but excluding the territories specified in sub-section (1) of section 3 and sub-section (1) of section 4 of tht Andhra State Act, 1953 and the territories specified in clause (*b*) of sub-section (1) of section 5, section 6 and clause (*d*) of sub-section (1) of section 7 of the States Reorganisation Act, 1956.
8. Mysore	...	The territories sperified in sub-section (1) of section 7 of the States Reorganisation Act, 1956.
9. Orissa	...	The territories which immediately before the commencement of this Constitution were either comprised in the Province of Orissa or were being administered as if they formed part of that Province.
10. Punjab	...	The territories specified in section 11 of the State Reorganisation Act, 1956.
11. Rajasthan	...	The territories specified in section 10 of the States Reorganisation Act, 1956.
12. Uttar Pradesh	...	The territories which immediately before the commencement of this Constitution were either comprised in the Province known as the United Provinces or were being administered as if they formed part of that Province.
13. West Bengal	...	The territories which immediately before the commencement of this Constitution were either comprised in the Province of West Bengal or were being administered as if they formed part of that Province and the territory of Chandernagore as defined in clause (*c*) of section 2 of the Chandernagore (Merger) Act, 1954, and also the territories specified in sub-section (1) of section 3 of the Bihar and West Bengal (Transfer of Territories) Act, 1956.
14. Jammu and Kashmir		The territory which immediately before the commencement of this Constitution was comprised in the Indian State of Jammu and Kashmir.

II. THE UNION TERRITORIES

Name	*Extent*
1. Delhi	... The territory which immediately before the commencement of this Constitution was comprised in the Chief Commissioner's Province of Delhi.
2. Himachal Pradesh	... The territories which immediately before the commencement of this Constitution were being administered as if they were Chief Commissioners' Provinces under the names of Himachal Pradesh and Bilaspur.
3. Manipur	... The territory which immediately before the commencement of this Constitution was being administered as if it were a Chief Commissioner's Province under the name of Manipur.
4. Tripura	... The territory which immediately before the commencement of this Constitution was being administered as if it were a Chief Commissioner's Province under the name of Tripura.
5. The Andaman and Nicobar Islands	The territory which immediately before the commencement of this Constitution was comprised in the Chief Commissioner's Province of the Andaman and Nicobar Islands.
6. The Laccadive, Minicoy and Amindivi Islands.	The territory specified in section 6 of the States Reorganisation Act, 1956".

Amendment of article 80 and Fourth Schedule.

3. (1) In article 80 of the Constitution,—

(*a*) in sub-clause (*b*) of clause (1), after the word "States", the words "and of the Union territories" shall be added;

(*b*) in clause (2), after the words "of the States", the words "and of the Union territories" shall be inserted;

(*c*) in clause (4), the words and letters "specified in Part A or Part B of the First Schedule" shall be omitted; and

(*d*) in clause (5), for the words and letter "States specified in Part C of the First Schedule", the words "Union territories" shall be substituted.

(2) For the Fourth Schedule to the Constitution as amended by the States Reorganisation Act, 1956, and the Bihar and West Bengal (Transfer of Territories) Act, 1956, the following Schedule shall be substituted, namely:—

"FOURTH SCHEDULE

[Articles 4(1) and 80(2)]

ALLOCATION OF SEATS IN THE COUNCIL OF STATES

To each State or Union territory specified in the first column of the following table, there shall be allotted the number of seats specified in the second column thereof opposite to that State or that Union territory, as the case may be.

TABLE

1.	Andhra Pradesh	18
2.	Assam	7
3.	Bihar	22
4.	Bombay	27
5.	Kerala	9
6.	Madhya Pradesh	16
7.	Madras	17
8.	Mysore	12
9.	Orissa	10
10.	Punjab	11
11.	Rajasthan	10
12.	Uttar Pradesh	34
13.	West Bengal	16
14.	Jammu and Kashmir	4
15.	Delhi	3
16.	Himachal Pradesh	2
17.	Manipur	1
18.	Tripura	1
	TOTAL	220"

Substitution of new articles for articles 81 and 82.

4. For articles 81 and 82 of the Constitution, the following articles shall be substituted, namely:—

"81. *Composition of the House of the People.*—(1) Subject to the provisions of article 331, the House of the People shall consist of—

(*a*) not more than five hundred members chosen by direct election from territorial constituencies in the States, and

(*b*) not more than twenty members to represent the Union territories, chosen in such manner as Parliament may by law provide.

(2) For the purposes of sub-clause (*a*) of clause (1),—

(*a*) there shall be allotted to each State a number of seats in the House of the People in such manner that the ratio between that number and the population of the State is, so far as practicable, the same for all States; and

(*b*) each State shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it is, so far as practicable, the same throughout the State.

(3) In this article, the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published.

82. *Readjustment after each census.*—Upon the completion of each census, the allocation of seats in the House of the People to the States and the division of each State into territorial constituencies shall be readjusted by such authority and in such manner as Parliament may by law determine:

Provided that such readjustment shall not affect representation in the House of the People until the dissolution of the then existing House."

Amendment of article 131.

5. In article 131 of the Constitution, for the proviso, the following proviso shall be substituted, namely:—

"Provided that the said jurisdiction shall not extend to a dispute arising out of any treaty, agreement, covenant, engagement, *sanad* or other similar instrument which, having been entered into or executed before the commencement of this Constitution, continues in operation after such commencement, or which provides that the said jurisdiction shall not extend to such a dispute".

Amendment of article 153.

6. To article 153 of the Constitution, the following proviso shall be added, namely:—

"Provided that nothing in this article shall prevent the appointment of the same person as Governor for two or more States".

Amendment of article 158.

7. In article 158 of the Constitution, after clause (3), the following clause shall be inserted, namely:—

"(3A) Where the same person is appointed as Governor of two or more State, the emoluments and allowances payable to the Governor shall be allocated among the States in such proportion as the President may by order determine".

Amendment of article 168.

8. (1) In clause (1) of article 168 of the Constitution in sub-clause (*a*), after the word "Madras", the word "Mysore" shall be inserted.

(2) In the said sub-clause, as from such date as the President may, by public notification, appoint, after the word "Bombay", the words "Madhya Pradesh" shall be inserted.

Substitution of new article for article 170.

9. For article 170 of the Constitution, the following article shall be substituted, namely:—

"170. *Composition of the Legislative Assemblies.*—(1) Subject to the provisions of article 333, the Legislative Assembly of each State shall consist of not more than five hundred, and not less than sixty, members chosen by direct election from territorial constituencies in the State.

(2) For the purposes of clause (1), each State shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the State,

Explanation.—In this clause, the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published.

(3) Upon the completion of each census, the total number of seats in the Legislative Assembly of each State and the division of each State in to territorial constituencies shall be readjusted by such authority and in such manner as Parliament may by law determine:

Provided that such readjustment shall not affect representation in the Legislative Assembly until the dissolution of the then existing Assembly."

Amendment of article 171.

10. In clause (1) of article 171 of the Constitution, for the word "one-fourth", the word one-third" shall be substituted.

Amendment of article 216.

11. In article 216 of the Constitution, the proviso shall be omitted.

Amendment of article 217.

12. In article 217 of the Constitution, in clause (1), for the words 'shall hold office until he attains the age of sixty years", the following words and figures shall be substituted, namely:—

"shall hold office, in the case of an additional or acting Judge, as provided in article 224, and in any other case, until he attains the age of sixty years."

Substitution of new article for article 220.

13. For article 220 of the Constitution, the following article shall be substituted, namely:—

"220. *Restriction on practice after being a permanent Judge.*—No person who, after the commencement of this Constitution, has held office as a permanent Judge of a High Court shall plead or act in any court or before any authority in India except the Supreme Court and the other High Courts.

Explanation.—In this article, the expression "High Court" does not include a High Court for a State specified in Part B of the First Schedule as it existed before the commencement of the Constitution (Seventh Amendment) Act, 1956.".

Amendment of article 222.

14. In article 222 of the Constitution,—

(*a*) in clause (1), the words "within the territory of India" shall be omitted; and

(*b*) clause (2) shall be omitted.

Substitution of new article for article 224.

15. For article 224 of the Constitution, the following article shall be substituted, namely:—

"224. *Appointment of additional and acting Judges.*—(1) If by reason of any temporary increase in the business of a High Court or by reason of arrears of work therein, it appears to the President that the number of the Judges of that Court should be for the time being increased, the President may appoint duly qualified persons to be additional Judges of the Court for such period not exceeding two years as he may specify.

(2) When any Judge of a High Court other than the Chief Justice

is by reason of absence or for any other reason unable to perform the duties of his office or is appointed to act temporarily as Chief Justice, the President may appoint a duly qualified person to act as a Judge of that Court until the permanent Judge has resumed his duties.

(3) No person appointed as an additional or acting judge of a High Court, shall hold office after attaining the age of sixty years."

Substitution of new articles for articles 230, 231 and 232.

16. For articles 230, 231 and 232 of the Constitution, the following articles shall be substituted, namely:—

"230. *Extension of jurisdiction of High Courts to Union territories.*—(1) Parliament may by law extend the jurisdiction of a High Court to, or exclude the jurisdiction of a High Court from, any Union territory.

(2) Where the High Court of a State exercises jurisdiction in relation to a Union territory,—

(*a*) nothing in this Constitution shall be construed as empowering the Legislature of the State to increase, restrict or abolish that jurisdiction; and

(*b*) the reference in article 227 to the Governor shall, in relation to any rules, forms or tables for subordinate courts in that territory, be construed as a reference to the President.

231. *Establishment of a common High Court for two or more States.*—(1) Notwithstanding anything contained in the preceding provisions of this Chapter, Parliament may by law establish a common High Court for two or more States or for two or more States and a Union territory.

(2) In relation to any such High Court,—

(*a*) the reference in article 217 to the Governor of the State shall be construed as a reference to the Governors of all the States in relation to which the High Court exercises jurisdiction;

(*b*) the reference in article 227 to the Governor shall, in relation to any rules, forms or tables for subordinate courts, be construed as a reference to the Governor of the State in which the subordinate courts are situate; and

(*c*) the references in articles 219 and 229 to the State shall be construed as a reference to the State in which the High Court has its principal seat:

Provided that if such principal seat is in a Union territory, the references in articles 219 and 229 to the Governor, Public Service Commission, Legislature and Consolidated Fund of the State shall be construed respectively as references to the President, Union Public Service Commission, Parliament and Consolidated Fund of India.".

Amendment of Part VIII.

17. In Part VIII of the Constitution,—

(*a*) for the heading "THE STATES IN PART C OF THE FIRST SCHEDULE", the heading "THE UNION TERRITORIES" shall be substituted; and

(*b*) for articles 239 and 240, the following articles shall be substituted, namely:—

"239. *Administration of Union territories.*—(1) Save as otherwise provided by Parliament by law, every Union territory shall be administered by the President acting, to such extent as he thinks fit through an administrator to be appointed by him with such designation as he may specify.

(2) Notwithstanding anything contained in Part VI, the President may appoint the Governor of a State as the administrator of an adjoining Union territory, and where a Governor is so appointed, he shall exercise his functions as such administrator independently of his Council of Ministers.

240. *Power of President to make regulations for certain Union territories.*—(1) The President may make regulations for the peace, progress and good government of the Union territory of—

(*a*) the Andaman and Nicobar Islands;

(*b*) the Laccadive, Minicoy and Amindivi Islands.

(2) Any regulation so made may repeal or amend any Act made by Parliament or any existing law which is for the time being applicable to the Union territory and, when promulgated by the President, shall have the same force and effect as an Act of Parliament which applies to that territory.".

Insertion of new article 258A.

18. After article 258 of of the Constitution, the following article shall be inserted, namely:—

"258A. *Power of the States to entrust functions to the Union.*—Notwithstanding anything in this Constitution, the Governor of a State may, with the consent of the Government of India, entrust either conditionally or unconditionally to that Government or to its officers functions in relation to any matter to which the executive power of the State extends".

Insertion of new article 290A.

19. After article 290 of the Constitution, the following article shall be inserted, namely:—

"290A. *Annual payment to certain Devaswom Funds.*—A sum of forty-sixth lakhs and fifty thousand rupees shall be charged on, and paid out of, the Consolidated Fund of the State of kerala every year to the Travancore Devaswom Fund; and a sum of thirteen lakhs and fifty thousand rupees shall be charged on, and paid out of, the Consolidated Fund of the State of Madras every year to the Devaswom Fund established in that State for the maintenance of Hindu temples and shrines in the territories transferred to that State on the 1st day of November, 1956, from the State of Travancore-Cochin.".

Substitution of new article for article 298.

20. For article 298 of the Constitution, the following article shall be substituted, namely:—

"298. *Power to carry on trade, etc.*—The executive power of the Union and of each State shall extend to the carrying on of any trade or business and to the acquisition, holding and disposal of property and the making of contracts for any purpose:

Provided that—

(*a*) the said executive power of the Union shall, in so far as such trade or business or such purpose is not one with respect to

which Parliament may make laws, be subject in each State to legislation by the State; and

(*b*) the said executive power of each State shall, in so far as such trade or business or such purpose is not one with respect to which the State Legislature may make laws, be subject to legislation by Parliament."

Insertion of new articles 350A and 350B.

21. After article 350 of the Constitution, the following articles shall be inserted, namely:—

"350A. *Facilities for instruction in mother-tongue at primary stage.*—It shall be the endeavour of every State and of every local authority within the State to provide adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups; and the President may issue such directions to any State as he considers necessary or proper for securing the provision of such facilities.

350B. *Special Officer for linguistic minorities.*—(1) There shall be a Special Officer for linguistic minorities to be appointed by the President.

(2) It shall be the duty of the Special Officer to investigate all matters relating to the safeguards provided for linguistic minorities under this Constitution and report to the President upon those matters at such intervals as the President may direct, and the President shall cause all such reports to be laid before each House of Parliament and sent to the Governments of the States concerned.".

Substitution of new article for article 371.

22. For article 371 of the Constitution, the following article shall be substituted, namely:—

"371. *Special provision with respect to the States of Andhra Pradesh, Punjab and Bombay.*—(1) Notwithstanding anything in this Constitution, the President may, by order made with respect to the State of Andra Pradesh or Punjab, provide for the constitution and functions of regional committees of the Legislative Assembly of the State, for the modifications to be made in the rules of business of the Government and in the rules of procedure of the Legislative Assembly of the State and for any special responsibility of the Governor in order to secure the proper functioning of the regional committees.

(2) Notwithstanding anything in this Constitution, the President may by order made with respect to the State of Bombay, provide for any special responsibility of the Governor for—

(a) the establishment of separate development boards for Vidarbha, Marathwada, the rest of Maharashtra, Saurashtra, Kutch and the rest of Gujarat with the provision that a report on the working of each of these boards will be placed each year before the State Legislative Assembly;

(*b*) the equitable allocation of funds for developmental expenditure over the said areas, subject to the requirements of the State as a whole; and

(*c*) an equitable arrangement providing adequate facilities for technical education and vocational training, and adequate opportunities

for employment in services under the control of the State Government, in respect of all the said areas, subject to the requirements of the State as a whole.".

Insertion of new article 372A.

23. After article 372 of the Constitution, the following article shall be inserted, namely:—

"372A. *Power of the President to adapt laws.*—(1) For the purposes of bringing the provisions of any law in force in India or in any part thereof, immediately before the commencement of the Constitution (Seventh Amendment) Act, 1956, into accord with the provisions of this Constitution as amended by that Act, the President may by order made before the 1st day of November, 1957, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and provide that the law shall, as from such date as may be specified in the order, have effect subject to the adaptations and modifications so made, and any such adaptation or modification shall not be questioned in any court of law.

(2) Nothing in clause (1) shall be deemed to prevent a competent legislature or other competent authority from repealing or amending any law adapted or modified by the President under the said clause."

Insertion of new article 378A.

24. After article 378 of the Constitution, the following article shall be inserted, namely:—

"378A. *Special provision as to duration of Andhra Pradesh Legislative Assembly.*—Notwithstanding anything contained in article 172, the Legislative Assembly of the State of Andhra Pradesh as constituted under the provisions of sections 28 and 29 of the States Reorganisation Act, 1956, shall, unless sooner dissolved, continue for a period of five years from the date referred to in the said section 29 and no longer and the expiration of the said period shall operate as a dissolution of that Legislative Assembly.".

Amendment of Second Schedule.

25. In the Second Schedule to the Constitution,-

(*a*) in the heading of Part D, the words and letter "in States in Part A of the First Schedule" shall be omitted;

(*b*) in sub-paragaph (1) of paragraph 9, for the words "shall be reduced by the amount of that pension", the following shall be substituted, namely:—

"shall be reduced—

(*a*) by the amount of that pension, and

(*b*) if he has, before such appointment, received in lieu of a portion of the pension due to him in respect of such previous service the commuted value thereof, by the amount of that portion of the pension, and

(*c*) if he has, before such appointment, received a retirement gratuity in respect of such previous service, by the pension equivalent of that gratuity."; and

(c) in paragraph 10—

(*i*) for sub-paragraph (1), the following sub-paragraph shall be substituted, namely:—

"(1) There shall be paid to the Judges of High Courts, in respect of time spent on actual service, salary at the following rates per mensem, that is to say,—

The Chief Justice	..	4,000 rupees
Any other Judge	..	3,500 rupees:

Provided that if a Judge of a High Court at the time of his appointment is in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or any of its predecessor Governments or under the Government of a State or any of its predecessor Governments, his salary in respect of service in the High Court shall be reduced—

(*a*) by the amount of that pension, and

(*b*) if he has, before such appointment, received in lieu of a portion of the pension due to him in respect of such previous service the commuted value thereof, by the amount of that portion of the pension, and

(*c*) if he has, before such appointment, received a retirement gratuity in respect of such previous service, by the pension equivalent of that gratuity"; and

(*ii*) for sub-paragraphs (3) and (4), the following sub-paragraph shall be substituted, namely:—

"(3) Any person who, immediately before the commencement of the Constitution (Seventh Amendment) Act, 1956, was holding office as the Chief Justice of the High Court of a State specified in Part B of the First Schedule and has on such commencement become the Chief Justice of the High Court of a State specified in the said Schedule as amended by the said Act, shall, if he was immediately before such commencement drawing any amount as allowance in addition to his salary, be entitled to receive in respect of time spent on actual service as such Chief Justice, the same amount as allowance in addition to the salary specified in sub-paragraph (1) of this paragraph".

Modification of entries in the Lists relating to acquisition and requisitioning of property.

26. In the Seventh Schedule to the Constitution, entry 33 of the Union List and entry 36 of the State List shall be omitted and for entry 42 of the Concurrent List, the following entry shall be substituted, namely:—

"42. Acquisition and requisitioning of property."

Amendment of certain provisions relating to ancient and historical monuments, etc.

27. In each of the following provisions of the Constitution, namely:—

(*i*) entry 67 of the Union List,

(*ii*) entry 12 of the State List,

(*iii*) entry 40 of the Concurrent List, and

(*iv*) article 49,

for the words "declared by Parliament by law", the words "declared by or under law made by Parliament" shall be substituted.

Amendment of entry 24 of State List.

28. In the Seventh Schedule to the Constitution, in entry 24 of the State List, for the word and figures "entry 52", the words and figures "entries 7 and 52" shall be substituted.

Consequential and minor amendments and repeals and savings.

29. (1) The consequential and minor amendments and repeals directed in the Schedule shall be made in the Constitution and in the Constitution (Removal of Difficulties) Order No. VIII, made under article 392 of the Constitution.

(2) Notwithstanding the repeal of article 243 of the Constitution by the said Schedule, all regulations made by the President under that article and in force immediately before the commencement of this Act shall continue in force until altered or repealed or amended by a competent Legislature or other competent authority.

THE SCHEDULE

(*See* section 29)

CONSEQUENTIAL AND MINOR AMENDMENTS AND REPEALS IN THE CONSTITUTION

Article 3.—In the proviso, omit "specified in Part A or Part B of the First Schedule".

Article 16.—In clause (3), for "under any State specified in the First Schedule or any local or other authority with in its territory any requirement as to residence within that State" substitute—

"under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory".

Article 31A.—In sub-clause (*a*) of clause (2) for "Travancore-Cochin" substitute "Kerala".

Article 58.—In the *Explanation*, omit "or Rajpramukh or Uparajpramukh".

Article 66.—In the *Explanation*, omit "or Rajpramukh or Uparajpramukh".

Article 72.—In clause (3), omit "or Rajpramukh".

Article 73.—In the proviso to clause (1), omit "specified in Part A or Part B of the First Schedule".

Article 101.—In clause (2), omit "specified in Part A or Part B of the First Schedule", and for "such a State" substitute "a State".

Article 112.—In sub-clause (d) (*iii*) of clause (3), for "a Province corresponding to a State specified in Part A of the First Schedule", substitute "a Governor's Province of the Dominion of India".

Article 143.—In clause (2), omit "clause (*i*) of" and for "said clause substitute "said proviso".

Article 151.—In clause (2), omit "or Rajpramukh".

Part VI.—In the heading, omit "IN PART A OF THE FIRST SCHEDULE".

Article 152.—For "means a State specified in Part A of the First Schedule" substitute "does not include the State of Jammu and Kashmir."

Article 214.—Omit "(1)" and clauses (2) and (3).

Article 217.—In sub-clause (b) of clause (2), omit "in any State specified in the First Schedule".

Article 219.—Omit "in a State".

Article 229.—In the proviso to clause (1) and in the proviso to clause (2), omit "in which the High Court has its principal seat".

Omit Part VII.

Article 241.—(*a*) In clause (1) for "State specified in Part C of the First Schedule" substitute "Union territory", and for "such State", substitute "such territory".

(*b*) For clauses (3) and (4), substitute—

"(3) Subject to the provisions of this Constitution and to the provisions of any law of the appropriate Legislature made by virtue of powers conferred on that Legislature by or under this Constitution, every High Court exercising jurisdiction immediately before the commencement of the Constitution (Seventh Amendment) Act, 1956, in relation to any Union territory shall continue to exercise such jurisdiction in relation to that territory after such commencement.

(4) Nothing in this article derogates from the power of Parliament to extend or exclude the jurisdiction of a High Court for a State to, or from, any Union territory or part thereof."

Omit article 242.

Omit Part IX.

Article 244.—Omit "specified in Part A or Part B of the First Schedule".

Article 246.—In clauses (2) and (3), omit "specified in Part A or Part B of the First Schedule" and in clause (4), for "in Part A or Part B of the First Schedule" substitute "in a State."

Article 254.—In clause (2), omit "specified in Part A or Part B of the First Schedule."

Article 255.—Omit "specified in Part A or Part B of the First Schedule".

Omit article 259.

Article 264.—For article 264, substitute—

"264. *Interpretation.*—In this Part, 'Finance Commission' means a Finance Commission constituted under article 280".

Article 267.—In clause (2), omit "or Rajpramukh".

Article 268.—In clause (1), for "State specified in Part C of the First Schedule" substitute "Union territory".

Article 269.—In clause (2), for "States specified in Part C of the First Schedule" substitute "Union territories",

Article 270.—In clauses (2) and (3), for "States specified in Part C of the First Schedule" substitute "Union territories."

Omit article 278.

Article 280.—In clause (3), omit sub-clause (c) and re-letter sub-clause (*d*) as sub-clause (*c*).

Article 283.—In clause (2), omit "or Rajpramukh".

Article 291.—Omit "(1)" and clause (2).

Article 299.—In clause (1), omit "or the Rajpramukh", and in clause (2), omit "nor the Rajpramukh".

Article 304.—In clause (*a*) after "other States", insert "or the Union territories".

Omit article 306.

Article 308.—For "means a State specified in Part A or Part B of the First Schedule", substitute "does not include the State of Jammu and Kashmir".

Article 309.—Omit "or Rajpramukh".

Article 310.—In clause (1), omit "or, as the case may be, the Rajpramukh", and in clause (2), omit "or Rajpramukh" and "or the Rajpramukh."

Article 311.—In clause (2), omit "or Rajpramukh".

Article 315.—In clause (4), omit "or Rajpramukh".

Article 316.—In clauses (1) and (2), omit "or Rajpramukh".

Article 317.—In clause (2), omit "or Rajpramukh".

Article 318.—Omit "or Rajpramukh."

Article 320.—In clause (3), omit "or Rajpramukh" and "or Rajpramukh, as the case may be", and in clause (5), omit "or Rajkramukh."

Article 323.—In clause (2), omit "or Rajpramukh" and "or Rajpramukh, as the case may be."

Article 324.—In clause (6), omit "or Rajpramukh."

Article 330.—In clause (2), after "State" wherever it occurs, insert "or Union territory."

Article 332.—In clause (1), omit "specified in Part A or Part B of the First Schedule."

Article 333.—Omit "or Rajpramukh."

Article 337.—Omit "specified in Part A or Part B of the First Schedule".

Article 339.—In clause (1), omit "specified in Part A and Part B of the First Schedule" and in clause (2), for "any such State" substitute "a State".

Article 341.—In clause (1), after "any State" insert "or Union territory", omit "specified in Part A or Part B of the First Schedule", omit "or Rajpramukh" and after "that State" insert "or Union territory, as the case may be".

Article 342.—In clause (1), after "any State" insert "or Union territory", omit "specified in Part A or Part B of the First Schedule" omit "or Rajpramukh" and after "that State" insert "or Union territory, as the case may be".

Article 348.—Omit "or Rajpramukh".

Article 356.—In clause (1), omit "or Rajpramukh" and "or Rajpramukh, as the case may be".

Article 361.—In clauses (2), (3) and (4), omit "or Rajpramukh" and in clause (4), omit "or the Rajpramukh".

Article 362.—Omit "clause (1) of".

Article 366.—Omit cltuse (21), and for clause (30), substitute—

"(30) 'Union territory' means any Union territory specified in the First Schedule and includes any other territory comprised within the territory of India but not specified in that Schedule".

Article 367.—In clause (2), omit "specified in Part A or Part B of the First Schedule" and "or Rajpramukh".

Article 368.—Omit "specified in Parts A and B of the First Schedule".

Omit articles 379 *to* 391, *both inclusive.*

Second Schedule.—(*a*) In the heading of Part A and in paragraph 1, omit "specified in Part A of the First Schedule";

(*b*) in paragraph 2, omit "so specified";

(*c*) in paragraph 3, for "such States" substitute "the States";

(*d*) omit Part B;

(*e*) in the heading of Part C, omit "of a State in Part A of the First Schedule", and for "any such State" substitute "a State"; and

(*f*) in paragraph 8, omit "of a State specified in Part A of the First Schedule", and for "such State" substitute "a State".

Fifth Schedule.—(*a*) In paragraph 1, omit "means a State specified in Part A or Part B of the First Schedule but";

(*b*) in paragraph 3, omit "or Rajpramukh";

(*c*) in paragraph 4, in sub-paragraph (2), omit "or Rajpramukh, as the case may be" and in sub-paragraph (3), omit "or Rajpramukh";

(*d*) in paragraph 5, in sub-paragraphs (1) and (2), omit "or Rajpramukh, as the case may be", in sub-paragraph (3), omit "or Rajpramukh" and in sub-paragraph (5) omit "or the Rajpramukh";

Sixth Schedule.—In paragraph 18, in sub-paragraph (2), for "Part IX" substitute "article 240", and for "territory specified in Part D of the First Schedule" substitute "Union territory specified in that article".

Seventh Schedule.—In List I,—

(*a*) in entry 32, omit "specified in Part A or Part B of the First Schedule"; and

(*b*) for entry 79, substitute.—

"79. Extension of the jurisdiction of a High Court to, and exclusion of the jurisdiction of a High Court from, any Union territory."

CONSEQUENTIAL AMENDMENTS IN THE CONSTITUTION (REMOVAL OF DIFFICULTIES) ORDER No. VIII.

In the Constitution (Removal of Difficulties) Order No. VIII, for sub-paragraphs (1), (2) and (3) of paragraph 2, substitute—

"(1) In article 81,—

(*a*) in sub-clause (*b*) of clause (1), after the words "Union territories", the words, letter and figures "and the tribal areas specified

in Part B of the Table appended to paragraph 20 of the Sixth Schedule" shall be inserted; and

(*b*) to clause (2), the following proviso shall be added, namely:—

"Provided that the constituencies into which the State of Assam is divided shall not comprise the tribal areas specified in Part B of the Table appended to paragraph 20 of the Sixth Schedule".

(2) In clause (2) of article 170, after the words "throughout the State" the following proviso shall be inserted, namely:—

"Provided that the constituencies into which the State of Assam is divided shall not comprise the tribal areas specified in Part B of the Table appended to paragraph 20 of the Sixth Schedule."

VIII. THE CONSTITUTION (EIGHTH AMENDMENT) ACT, 1959

An Act further to amend the Constitution of India.

[*5th January*, 1960.]

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Eighth Amendment) Act, 1959.

Amendment of article 334.

2. In article 334 of the Constitution, for the words "ten years", the words "twenty years" shall be substituted

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IX. THE CONSTITUTION (NINTH AMENDMENT) ACT, 1960

An Act further to amend the Constitution of India.

[*28th December*, 1960.]

An Act further to amend the Constitution of India to give effect to the transfer of certain territories to Pakistan in pursuance of the agreements entered into between the Governments of India and Pakistan.

BE it enacted by Parliament in the Eleventh Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Ninth Amendment) Act, 1960.

Definitions.

2. In this Act,—

(a) "appointed day" means such date as the Central Government may, by notification in the Official Gazette, appoint as the date for the transfer of territories to Pakistan in pursuance of the Indo-Pakistan agreements, after causing the territories to be so transferred and referred to in the First Schedule demarcated for the purpose and different dates may be appointed for the transfer of such territories from different States and from the Union territory of Tripura;

(*b*) "Indo-Pakistan agreements" mean the Agreements dated the 10th day of September, 1958, the 23rd day of October, 1959 and the 11th day of January, 1960, entered into between the Governments of India and Pakistan, the relevant extracts of which are set out in the Second Schedule;

(*c*) "transferred territory" means so much of the territories comprised in the Indo-Pakistan agreements and referred to in the First Schedule as are demarcated for the purpose of being transferred to Pakistan in pursuance of the said agreements.

Amendment of the First Schedule to the Constitution.

3. As from the appointed day, in the First Schedule to the Constitution,—

(*a*) in the paragraph relating to the territories of the State of Assam, the words, brackets and figures "and the territories referred to in Part I of the First Schedule to the Constitution (Ninth Amendment) Act, 1960" shall be added at the end;

(*b*) in the paragraph relating to the territories of the State of Punjab, the words, brackets and figures "but excluding the territories referred to in Part II of the First Schedule to the Constitution (Ninth Amendment) Act, 1960" shall be added at the end;

(*c*) in the paragraph relating to the territories of the State of West Bengal, the words, brackets and figures "but excluding the territories referred to in Part III of the First Schedule to the Constitution (Ninth Amendment) Act, 1960" shall be added at the end;

(*d*) in the paragraph relating to the extent of the Union territory of Tripura, the words, brackets and figures "but excluding the territories referred to in Part IV of the First Schedule to the Constitution (Ninth Amendment) Act, 1960" shall be added at the end.

THE FIRST SCHEDULE

[See sections 2(a), 2(c) and 3]

PART I.

The transferred territory in relation to item (7) of paragraph 2 of the Agreement dated the 10th day of September, 1958, and item (i) of paragraph 6 of the Agreement dated the 23rd day of October, 1959.

PART II

The transferred territory in relation to item (i) and item (iv) of paragraph 1 of the Agreement dated the 11th day of January, 1960.

PART III

The transferred territory in relation to item (3), item (5) and item (10) of paragraph 2 of the Agreement dated the 10th day of September, 1958, and paragraph 4 of the Agreement dated the 23rd day of October, 1959.

PART IV

The transferred territory in relation to item (8) of paragraph 2 of the Agreement dated the 10th day of September, 1958.

THE SECOND SCHEDULE.

[See section 2(b)]

1. *Extracts from the Note containing the Agreement dated the 10th day of September*, 1958.

* * * * * * * * *

2. As a result of the discussions, the following agreements were arrivtd at:—

* * * * * * * * *

3. Berubari Union No. 12.

This will be so divided as to give half the area to Pakistan, the other half adjacent to India being retained by India. The division of Berubari Union No. 12 will be horizontal, starting from the north-east corner of Debiganj thana.

The division should be made in such a manner that the Cooch Behar enclaves between Pachagar thana of East Pakistan and Berubari Union No. 12 of Jalpaiguri thana of West Bengal will remain connected as at present with Indian territory and will remain with India. The Cooch Behar enclaves lower down between Doda thana of East Pakistan and Berubari Union No. 12 will be exchanged along with the general exchange of enclaves and will go to Pakistan.

* * * * * * * * *

5. 24 Pargonas—Jessore
   24 Parganas—Khulna } Boundary disputes.

It is agreed that the mean of the two respective claims of India and Pakistan should be adopted, taking the river as a guide, as far as possible, in the case of the latter dispute. (Ichhamati river).

* * * * * * * * *

(7) Piyain and Surma river regions to be demarcated in accordance with the relevant notifications, cadastral survey maps and if necessary, record of rights. Whatever the result of this demarcation might be, the nationals of both the Governments to have the facility of navigation on both these rivers.

(8) Government of India agree to give in perpetual right to Pakistan the land belonging to Tripura State to the west of the railway line as well as the land appurtenant to the railway line at Bhagalpur.

* * * * * * * * *

(10) Exchange of old Cooch Behar enclaves in Pakistan and Pakistan exclaves in India without claim to compensation for extra area going to Pakistan, is agreed to.

* * * * * * * * *

(Sd.) M. S. A. BAIG,
Foreign Secretary,
Ministry of Foreign Affairs &
Commonwealth Relations,
Government of Pakistan.

(Sd.) M. J. DESAI,
Commonwealth Secretary,
Ministry of External Affairs,
Government of India.

New Delhi,
THE SEPTEMBER, 10, 1958.

2. *Extracts from Agreement entitled "Agreed Decisions and Procedures to end Disputes and Incidents along the Indo-East Pakistan Border Areas" dated the 23rd day of October, 1959.*

* * * * * * * * *

4. *West Bengal-East Pakistan Boundary.*

Over 1,200 miles of this boundary have already been demarcated. As regards the boundary between West Bengal and East Pakistan in the areas of Mahananda, Burung and Karatoa rivers, it was agreed that demarcation will be made in accordance with the latest cadastral survey maps supported by relevant notifications and record-of-rights.

* * * * * * * * *

6. Assam-East Pakistan Boundary.

* * * * * * * * *

(i) The dispute concerning Bagge, Award III has been settled by adopting the following rational boundary in the Patharia Forest Reserve region:

From a point marked X (H522558) along the Radcliffe Line BA on the old Patharia Reserve Boundary as shown in the topographical map sheet No. 83D/5, the boundary line shall run in close proximity and parallel to the cart road to its south to a point A (H531554); thence in a southerly direction up the spur and along the ridge to a hill top marked B (H523529); thence in a south-easttrly direction along the ridge down the spur across a stream to a hill top marked C (H532523); thence in a southerly direction to a point D (H530517); thence in a south-westerly direction to a flat top E (H523507): thence in a southerly direction to a point F (H524500); thence in a south-easterly direction in a straight line to the midstream point of the Gandhai Nala marked G (H540494); thence in south-westerly direction up the midstream of Gandhai Nala to a point H (H533482); thence in a south-westerly direction up a spur and along the ridge to a point I (H517460); thence in a southerly direction to a point on the ridge marked J (H518455); thence in a south-westerly direction along the ridge to a point height 364 then continues along the same direction along the same ridge to a point marked K (H500428); thence in a south and south-westerly direction along the same ridge to a point marked L (H496420); thence in a south-easterly direction along the same ridge to a point marked M (H499417); thence in a south-westerly direction along the ridge to a point on the bridle path with a height 587; then up the spur to the hill top marked N (H487393); then in a south-easterly and southerly direction along the ridge to the hill top with height 692; thence in a southerly direction down the spur to a point on Buracherra marked O (H484344); thence in a south-westerly direction up the spur along the ride to the trigonometrical survey station with height 690; thence in a southerly direction along the ridge to a point height 490 (H473292); thence in a straight line due south to a point on the eastern boundary of the Patharia Reserve Forest marked Y (H473263); along the Radcliffe Line BA.

The line described above has been plotted on two copies of topographical map sheets Nos. 83D|5, 83D|6 and 83D|2.

The technical experts responsible for the ground demarcation will have the authority to make minor adjustments in order to make the boundary alignment agree with the physical features as described.

The losses and gains to either country as a result of these adjustments with respect to the line marked on the map will be balanced by the technical experts—

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(Sd.) J. G. KHARAS,
Acting Foreign Secretary,
Ministry of Foreign Affairs &
Commonwealth Relations,
Karachi.

(Sd.) M. J. DESAI,
Commonwealth Secretary,
Ministry of External Affairs,
New Delhi.

NEW DELHI,
October, 23, 1959.

3. *Extracts from the Agreement entitled "Agreed decisions and procedures to end disputes and incidents along the Indo-West Pakistan border areas", dated the 11th day of January, 1960.*

"1. West Pakistan-Punjab border.—Of the total of 325 miles of the border in this sector, demarcation has been completed along about 252 miles. About 73 miles of the border has not yet been demarcated due to differences between the Government of India and Pakistan regarding interpretation of the decision and Award of the Punjab Boundary Commission presented by Sir Cyril Radcliffe as Chairman of the Commission. These differences have been settled along the lines given below in a spirit of accommodation:

(i) Theh Sarja Marja, Rakh Hardit Singh and Pathanke (Amritsar-Lahore border).—The Governments of India and Pakistan agree that the boundary between West Pakistan and India in this region should follow the boundary between the Tehsils of Lahore and Kasur as laid down under Punjab Government Notification No. 2183-E, dated 2nd June, 1939. These three villages will in consequence, fall within the territorial jurisdiction of the Government of Pakistan.

* * * * * * * * *

(iv) Sulcimanke (Ferozepur-Montgomery border).—The Governments of India and Pakistan agree to adjust the district boundaries in this region as specified in the attached Schedule and as shown in the map appended thereto as Annexure I.

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(Sd.) M. J. DESAI,
Commonwealth Secretary,
Ministry of External Affairs,
Government of India.

(Sd.) J. G. KHARAS,
Joint Secretary,
Ministry of Foreign Affairs &
Commonwealth Relations,
Government of Pakistan.

NEW DELHI,
January, 11, 1960.

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X. THE CONSTITUTION (TENTH AMENDMENT) ACT, 1961

An Act further to amend the Constitution of India.

[16*th August*, 1961.]

BE it enacted by Parliament in the Twelfth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Constitution (Tenth Amendment) Act, 1961.

(*2*) It shall be deemed to have come into force on the 11th day of August, 1961.

Amendment of the First Schedule to the Constitution.

2. In the First Schedule to the Constitution under the heading "THE UNION TERRITORIES" after entry 6, the following entry shall be inserted, namely:—

"Dadra and Nagar Haveli	The territory which immediately before the eleventh day of August, 1961 was comprised in Free Dadra and Nagar Haveli".

Amendment of article 240.

3. In article 240 of the Constitution, in clause (1), after entry (b), the following entry shall be inserted, namely:—

"(c) Dadra and Nagar Haveli."

XI. THE CONSTITUTION (ELEVENTH AMENDMENT) ACT, 1961

An Act further to amend the Constitution of India.

[19*th December*, 1961.]

BE it enacted by Parliament in the Twelfth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Eleventh Amendment) Act, 1961.

Amendment of article 66.

2. In article 66 of the Constitution, in clause (1), for the words "members of both Houses of Parliament assembled at a joint meeting", the words "members of an electoral college consisting of the members of both Houses of Parliament" shall be substituted.

Amendment of article 71.

3. In article 71 of the Constitution, after clause (3), the following clause shall be inserted, namely:—

"(4) The election of a person as President or Vice-President shall not be called in question on the ground of the existence of any vacancy for whatever reason among the members of the electoral college electing him".

XII. THE CONSTITUTION (TWELFTH AMENDMENT) ACT, 1962

An Act further to amend the Constitution of India.

[27*th March*, 1962.]

BE it enacted by Parliament in the Thirteenth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Constitution (Twelfth Amendment) Act, 1962.

(2) It shall be deemed to have come into force on the 20th day of December, 1961.

Amendment of the First Schedule to the Constitution.

2. In the First Schedule to the Constitution, under the heading "THE UNION TETTITORIES", after entry 7, the following entry shall be inserted, namely:—

"8. Goa, Daman and Diu	The territories which immediately before the twentieth day of December, 1961 were comprised in Goa, Daman and Diu."

Amendment of article 240.

3. In article 240 of the Constitution, in clause (1), after entry (c), the following entry shall be inserted, namely:—

"(d) Goa, Daman and Diu."

XIII. THE CONSTITUTION (THIRTEENTH AMENDMENT) ACT, 1962

An Act further to amend the Constitution of India.

[28*th December*, 1962.]

BE it enacted by Parliament in the Thirteenth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Constitution (Thirteenth Amendment) Act, 1962.

(2) It shall come into force on such date as the Central Government may, be notification in the Official Gazette, appoint.

Amendment of Part XXI.

2. In Part XXI of the Constitution—

(a) for the heading, the following heading shall be substituted, namely:—

"TEMPORARY, TRANSITIONAL AND SPECIAL PROVISIONS";

(b) after article 371, the following article shall be inserted, namely:—

Special provision with respect to the State of Nagaland.

3. "371A. (1) Notwithstanding anything in this Constitution,—

(a) no Act of Parliament in respect of—

(i) religious or social practices of the Nagas,

(ii) Naga customary law and procedure,

(iii) administration of civil and criminal justice involving decisions according to Naga customary law,

(iv) ownership and transfer of land and its resources,

shall apply to the State of Nagaland unless the Legislative Assembly of Nagaland by a resolution so decides;

(b) the Governor of Nagaland shall have special responsibility with respect to law and order in the State of Nagaland for so long as in his opinion internal disturbances occurring in the Naga Hills-Tuensang Area immediately before the formation of that State continue therein or in any part thereof and in the discharge of his functions in relation thereto the Governor shall, after consulting the Council of Ministers, exercise his individual judgment as to the action to be taken:

Provided that if any question arises whether any matter is or is not a matter as respects which the Governor is under this sub-clause required to act in the exercise of 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 the exercise of his individual judgment:

Provided further that if the President on receipt of a report from the Governor or otherwise is satisfied that it is no longer necessary for the Governor to have special responsibility with respect to law and order in the State of Nagaland, he may by order direct that the Governor shall cease to have such responsibility with effect from such date as may be specified in the order;

(c) in making his recommendation with respect to any demand for a grant, the Governor of Nagaland shall ensure that any money provided by the Government of India out of the Consolidated Fund of India for any specific service or purpose is included in the demand for a grant relating to that service or purpose and not in any other demand;

(d) as from such date as the Governor of Nagaland may by public notification in this behalf specify, there shall be established a regional council for the Tuensang district consisting of thirty-five members and the Governor shall in his discretion make rules providing for—

(i) the composition of the regional council and the manner in which the members of the regional council shall be chosen:

Provided that the Deputy Commissioner of the Tuensang district shall be the Chairman ex officio of the regional council and the Vice-Chairman of the regional council shall be elected by the members thereof from amongst themselves;

(ii) the qualifications for being chosen as, and for being, members of the regional council;

(iii) the term of office of, and the salaries and allowances, if any, to be paid to members of, the regional council;

(iv) the procedure and conduct of business of the regional council;

(v) the appointment of officers and staff of the regional council and their conditions of services, and

(vi) any other matter in respect of which it is necessary to make rules for the constitution and proper functioning of the regional council.

(2) Notwithstanding anything in this Constitution, for a period of ten years from the date of the formation of the State of Nagaland or for such further period as the Governor may, on the recommendation of the regional council, by public notification specify in this behalf,—

(a) the administration of the Tuensang district shall be carried on by the Governor;

(b) where any money is provided by the Government of India to the Government of Nagaland to meet the requirements of the State of Nagaland as a whole, the Governor shall in his discretion arrange for an equitable allocation of that money between the Tuensang district and the rest of the State;

(c) no Act of the Legislature of Nagaland shall apply to the Tuensang district unless the Governor, on the recommendation of the regional council, by public notification so directs and the Governor in giving such direction with respect to any such Act may direct that the Act shall in its application to the Tuensang district or any part thereof have effect subject to such exceptions or modifications as the Governor may specify on the recommendation of the regional council:

Provided that any direction given under this sub-clause may be given so as to have retrospective effect;

(d) the Governor may make regulations for the peace, progress and good government of the Tuensang district and any regulations so made may repeal or amend with retrospective effect, if necessary, any Act of Parliament or any other law which is for the time being applicable to that district;

(e) (i) one of the members representing the Tuensang district in the Legislative Assembly of Nagaland shall be appointed Minister for Tuensang affairs by the Governor on the advice of the Chief Minister and the Chief Minister in tendering his advice shall act on the recommendation of the majority of the members as aforesaid;

(ii) the Minister for Tuensang affairs shall deal with, and have direct access to the Governor on, all matters relating to the Tuensang district but he shall keep the Chief Minister informed about the same;

(f) notwithstanding anything in the foregoing provisions of this clause, the final dicision on all matters relating to the Tuensang district shall be made by the Governor in his discretion;

(g) in articles 54 and 55 and clause (4) of article 80, references to the elected members of the Legislative Assembly of a State or to each such member shall include references to the members or member of the Legislative Assembly of Nagaland elected by the regional council established under this article;

(h) in article 170—

(i) clause (1) shall, in relation to the Legislative Assembly of Nagaland, have effect as if for the word 'sixty', the words 'forty-six' had been substituted;

(ii) in the said clause, the reference to direct election from territorial constituencies in the State shall include election by the members of the regional council established under this article;

(iii) in clauses (2) and (3), references to territorial constituencies shall mean references to territorial constituencies in the Kohima and Mokokchung districts.

(3) If any difficulty arises in giving affect to any of the foregoing provisions of this article, the President may by order do anything (including any adaptation or modification of any other article) which appears to him to be necessary for the purpose of removing that difficulty:

Provided that no such order shall be made after the expiration of three years from the date of the formation of the State of Nagaland.

Explanation.—In this article, the Kohima-Mokochung and Tuensang districts shall have the same meanings as in the State of Nagaland Act, 1962.

XIV. THE CONSTITUTION (FOURTEENTH AMENDMENT) ACT, 1962

An Act further to amend the Constitution of India.

[28*th December*, 1962.]

BE it enacted by Parliament in the Thirteenth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Fourteenth Amendment) Act, 1962.

Amendment of article 81.

2. In article 81 of the Constitution, in sub-clause (b) of clause (1), for the words "twenty members", the words "twenty-five members" shall be substituted.

Amendment of the First Schedule.

3. In the First Schedule to the Constitution, under the heading "11. THE UNION TERRITORIES", after entry 8, the following entry shall be inserted, namely:—

"9. Pondicherry:	The territories which immediately before the sixteenth day of August, 1962, were comprised in the French Establishments in India known as Pondicherry, Karikal, Mahe and Yanam."

Insertion of new article 239A.

4. After article 239 of the Constitution, the following article shall be inserted, namely:—

Creation of local Legislatures or Council of Ministers or both for certain Union territories.

"239A. (1) Parliament may by law create for any of the Union territories of Himachal Pradesh, Manipur, Tripura, Goa, Daman and Die, and Pandicherry—

(a) a body, whether elected or partly nominated and partly elected, to function as a Legislature for the Union territory, or

(b) a Council of Ministers,

or both with such constitution, powers and functions, in each case, as may be specified in the law.

(2) Any such law as is referred to in clause (1) shall not be deemed to be an amendment of this Constitution for the purposes of article 368 notwithstanding that it contains any provision which amends or has the effect of amending this Constitution."

Amendment of article 240.

5. In article 240 of the Constitution, in clause (1)—

(a) After entry (d), the following entry shall be inserted, namely:—

"(e) Pondicherry:";

(b) the following proviso shall be inserted at the end, namely:—

"Provided that when any body is created under article 239A to function as a Legislature for the Union territory of Goa, Daman and Diu or Pondicherry the President shall not make any regulation for the peace, progress and good government of that Union territory with effect from the date appointed for the first meeting of the Legislature."

Amendment of the Fourth Schedule.

6. In the Fourth Schedule to the Constitution, in the Table—

(a) after entry 20, the entry

"21. Pondicherry.....1" shall be inserted;

(b) for the figures "225", the figures "226" shall be substituted.

Retrospective operation of certain provisions.

7. Section 3 and clause (a) of section 5 shall be deemed to have come into force on the 16th day of August, 1962.

XV. THE CONSTITUTION (FIFTEENTH AMENDMENT) ACT, 1963

An Act further to amend the Constitution of India.

[*6th October,* 1963

Be it enacted by Parliament in the Fourteenth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Fifteenth Amendment) Act, 1963.

Amendment of article 124.

2. In article 124 of the Constitution, after clause (2), the following clause shall be inserted, namely:—

"(2A) The age of a Judge of the Supreme Court shall be determined by such authority and in such manner as Parliament may by law provide."

Amendment of article 128.

3. In article 128 of the Constitution, after the words "Federal Court", the words "or who has held the office of a Judge of a High Court and is duly qualified for appointment as a Judge of the Supreme Court" shall be inserted.

Amendment of article 217.

4. In article 217 of the Constitution,—

(*a*) in clause (1), for the words "sixty years", the words, "sixty-two years" shall be substituted;

(*b*) after clause (2), the following clause shall be inserted and shall be deemed always to have been inserted, namely:—

"(3) If any question arises as to the age of a Judge of a High Court, the question shall be decided by the President after consultation with the Chief Justice of India and the decision of the President shall be final."

* * *

Amendment of article 222.

5. In article 222 of the Constitution, after clause (1), the following clause shall be inserted, namely:—

"(2) When a Judge has been or is so transferred, he shall, during the period he serves, after the commencement of the Constitution (Fifteenth Amendment) Act, 1963, as a Judge of the other High Court, be entitled to receive in addition to his salary such compensatory allowance as may be determined by Parliament by law and, until so determined, such compensatory allowance as the President may by order fix".

Amendment of article 224.

6. In article 224 of the Constitution, in clause (3), for the words "sixty years", the words "sixty-two years" shall be substituted.

Insertion of new article 224A.

7. After article 224 of the Constitution, the following article shall be inserted, namely:—

"224A. Notwithstanding anything in this Chapter, the Chief Justice of a High Court for any State may at any time, with the previous consent of the President, request any person who has held the office of a Judge of that Court or of any other High Court to sit and act as a Judge of the High Court for that State, and every such person so requested shall, while so sitting and acting, be entitled to such allowances as the President may by order determine and have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a Judge of that High Court:

Appointment of retired Judges at sitting of High Courts.

Provided that nothing in this article shall be deemed to require any such person as aforesaid to sit and act as a Judge of that High Court unless he consents so to do."

Amendment of article 226.

8. In article 226 of the Constitution,—

(*a*) after clause (1), the following clause shall be inserted, namely:—

"(1A) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories";

(*b*) in clause (2), for the word, brackets and figure "clause (1)", the words, brackets, figures and letter "clause (1) or clause (1A)" shall be substituted.

Amendment of article 297.

9. In article 297 of the Constitution, after the words "territorial waters", the words "or the continental shalf" shall be inserted.

Amendment of article 311.

10. In article 311 of the Constitution, for clauses (2) and (3), the following clauses shall be substituted, namely:—

"(2) No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges and where it is proposed, after inquiry, to impose on him any such penalty, until he has been given a reasonable opportunity of making representation on the penalty proposed, but only on the basis of the evidence adduced during such inquiry:

Provided that this clause shall not apply—

(*a*) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or

(*a*) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or

(*b*) where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry; or

(*c*) where the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State it is not expedient to hold such inquiry.

(*3*) If, in respect of any such person as aforesaid, a question arises whether it is reasonably practicable to hold such inquiry as is referred to in clause (2), the decision thereon of the authority empowered to dismiss or remove such person or to reduce him in rank shall be final."

Amendment of article 316.

11. In article 316 of the Constitution, after clause (1), the following clause shall be inserted, namely:—

"(1A) If the office of the Chairman of the Commission becomes vacant or if any such Chairman is by reason of absence or for any other reason unable to perform the duties of his office, those duties shall, until some person appointed under clause (1) to the vacant office has entered on the duties thereof or, as the case may be, until the Chairman has resumed his duties, be performed by such one of the other members of the Commission as the President, in the case of the Union commission or a Joint Commission, and the Governor of the State in the case of a State Commission, may appoint for the purpose."

Amendment of the Seventh Schedule.

12. In the Seventh Schedule to the Constitution, in List I, in entry 78, after the word "organisation", the brackets and words "(including vacations)" shall be inserted and shall be deemed always to have been inserted.

XVI. THE CONSTITUTION (SIXTEENTH AMENDMENT) ACT, 1963

An Act further to amend the Constitution of India.

[*6th October*, 1963

BE it enacted by Parliament in the Fourteenth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Sixteenth Amendment) Act, 1963.

2. In article 19 of the Constitution,—

Amendment of article 19.

(*a*) in clause (2), after the words "in the interests of ", the words "the sovereignty and integrity of India," shall be inserted;

(*b*) in clauses (3) and (4), after the words "in the interests of", the words "the sovereignty and integrity of India or" shall be inserted.

Amendment of article 84.

3. In article 84 of the Constitution, for clause (*a*), the following clause shall be substituted, namely:—

"(*a*) is a citizen of India, and makes and subscribes before some person authorized in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule;"

Amendment of article 173.

4. In article 173 of the Constitution, for clause (*a*), the following clause shall be substituted, namely:—

"(*a*) is a citizen of India, and makes and subscribes before some person authorized in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule;"

Amendment of Third Schedule.

5. In the Third Schedule to the Constitution,—

(*a*) in Form I, after the words "Constitution of India as by law established," the words "that I will uphold the sovereignty and integrity of India," shall be inserted;

(*b*) for Form III, the following shall be substituted, namely:—

'III

A

Form of oath or affirmation to be made by a candidate for election to Parliament:—

"I, A.B., having been nominated as a candidate to fill a seat in the Council of States (or the House of the People) do swear in the name of God / solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established and that I will uphold the sovereignty and integrity of India."

B

Form of oath of affirmation to be made by a member of Parliament:—

"I, A.B., having been elected (or nominated) a member of the Council of States (or the House of the People) do swear in the name of God / solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India and that I will faithfully discharge the duty upon which I am about to enter."';

(*c*) in Forms IV, V and VIII, after the words "the Constitution of India as by law established," the words "that I will uphold the sovereignty and integrity of India," shall be inserted;

(*d*) for Form VII, the following shall be substituted, namely:—

'VII

A

Form of oath or affirmation to be made by a candidate for election to the Legislature of a State:—

"I, A.B., having been nominated as a candidate to fill a seat in the Legislative Assembly (or Legislative Council), do swear in the name of God / solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established and that I will uphold the sovereignty and integrity of India."

B

Form of oath or affirmation to be made by a member of the Legislature of a State:—

"I, A.B., having been elected (or nominated) a member of the Legislative Assembly (or Legislative Council), do swear in the name of God / solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India and that I will faithfully discharge the duty upon which I am about to enter."

XVII. THE CONSTITUTION (SEVENTEENTH AMENDMENT) ACT, 1964

An Act further to amend the Constitution of India.

[20-6-64.

BE it enacted by Parliament in the Fifteenth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Seventeenth Amendment) Act, 1964.

Amendment of article 31A.

2. In article 31A of the Constitution,—

(*i*) in clause (1), after the existing proviso, the following proviso shall be inserted, namely:—

"Provided further that where any law makes any provision for the acquisition by the State of any estate and where any land comprised therein is held by a person under his personal cultivation, it shall not be lamful for the State to acquire any portion of such land as is within the ceiling limit applicable to him under any law for the time being in force or any building or structure standing thereon or appurtenant thereto, unless the law relating to the acquisition of such land, building or structure, provides for payment of compensation at a rate which shall not be less than the market value thereof";

(*ii*) in clause (2), for sub-clause (*a*), the following sub-clause shall be substituted and shall be deemed always to have been substituted, namely:—

'(*a*) the expression "estate" shall, in relation to any local area, have the same meaning as that expression or its local equivalent has in the existing law relating to land tenures in force in that area and shall also include—

(*i*) any *jagir, inam* or *muafi* or other similar grant and in the States of Madras and Kerala, any *janmam* right;

(*ii*) any land held under ryotwari settlement;

(*iii*) any land held or let for purposes of agriculture or for purposes ancillary thereto, including waste land, forest land, land for pasture or sites of buildings and other structures occupied by cultivators of land, agricultural labourers and village artisans'.

Amendment of Ninth Schedule.

3. In the Ninth Schedule to the Constitution, after entry 20, the following entries shall be added, namely:—

"21. The Andhra Pradesh Ceiling on Agricultural Holdings Act, 1961 (Andhra Pradesh Act X of 1961).

22. The Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands (Validation) Act, 1961 (Andhra Pradesh Act XXI of 1961).

23. The Andhra Pradesh (Telangana Area) Ijara and Kowli Land Cancellation of Irregular Pattas and Abolition of Concessional Assessment Act, 1961 (Andhra Pradesh Act XXXVI of 1961).

24. The Assam State Acquisition of Lands Belonging to Religious or Caritable Institution of Public Nature Act, 1959 (Assam Act IX of 1961).

25. The Bihar Land Reforms (Amendment) Act, 1953 (Bihar Act XX of 1954).
26. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (Bihar Act XII of 1962), (except section 28 of this Act).
27. The Bombay Taluqdari Tenure Abolition (Amendment) Act, 1954 (Bombay Act I of 1955).
28. The Bombay Taluqdari Tenure Abolition (Amendment) Act, 1957 (Bombay Act XVIII of 1958).
29. The Bombay Inams (Kutch Area) Abolition Act, 1958 (Bombay Act XCVIII of 1958).
30. The Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1960 (Gujarat Act XVI of 1960).
31. The Gujarat Agricultural Lands Ceiling Act, 1960 (Gujarat Act XXVII of 1961).
32. The Sagbara and Mehwassi Estates (Proprietary Rights Abolition, etc.) Regulation, 1962 (Gujarat Regulation I of 1962).
33. The Gujarat Surviving Alienations Abolition Act, 1963 (Gujarat Act XXXIII of 1963).
34. The Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961 (Maharashtra Act XXVII of 1961).
35. The Hyderabad Tenancy and Agricultural Lands (Re-enactment, Validation and Further Amendment) Act, 1961 (Maharashtra Act XLV of 1961).
36. The Hyderabad Tenancy and Agricultural Lands Act, 1950 (Hyderabad Act XXI of 1950).
37. The Jenmikaram Payment (Abolition) Act, 1960 (Kerala Act III of 1961).
38. The Kerala Land Tax Act, 1961 (Kerala Act XIII of 1961).
39. The Kerala Land Reforms Act, 1963 (Kerala Act I of 1964).
40. The Madhya Pradesh Land Revenue Code, 1959 (Madhya Pradesh Act XX of 1959).
41. The Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960 (Madhya Pradesh Act XX of 1960).
42. The Madras Cultivating Tenants Protection Act, 1955 (Madras Act XXV of 1955).
43. The Madras Cultivating Tenants (Payment of Fair Rent) Act, 1956 (Madras Act XXIV of 1956).
44. The Madras Occupants of Kudiyiruppu (Protection from Eviction) Act 1961 (Madras Act XXXVIII of 1961).
45. The Madras Public Trusts (Regulation of Administration of Agricultural Lands) Act, 1961 (Madras Act LVII of 1961).
46. The Madras Land Reforms (Fixation of Ceiling on Land) Act, 1961 (Madras Act LVIII of 1961).
47. The Mysore Tenancy Act, 1952 (Mysore Act XIII of 1952).
48. The Coorg Tenants Act, 1957 (Mysore Act XIV of 1957).
49. The Mysore Village Offices Abolition Act, 1961 (Mysore Act XIV of 1961).
50. The Hyderabad Tenancy and Agricultural Lands (Validation) Act, 1961 (Mysore Act XXXVI of 1961).
51. The Mysore Land Reforms Act, 1961 (Mysore Act X of 1962).
52. The Orissa and Land Reforms Act, 1960 (Orissa Act XVI of 1960).
53. The Orissa Merged Territories (Village Office Abolition) Act, 1963 (Orissa Act X of 1963).

54. The Punjab Security of Land Tenures Act, 1953 (Punjab Act X of 1953).
55. The Rajasthan Tenancy Act, 1955 (Rajasthan Act III of 1955).
56. The Rajasthan Zamindari and Biswedari Abolition Act, 1959 (Rajasthan Act VIII of 1959).
57. The Kumaun and Uttarakhand Zamindari Abolition and Land Reforms Act, 1960 (Uttar Pradesh Act XVII of 1960).
58. The Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1960 (Uttar Pradesh Act I of 1961).
59. The West Bengal Estates Acquisition Act, 1953 (West Bengal Act I of 1954).
60. The West Bengal Land Reforms Act, 1955 (West Bengal Act X of 1956).
61. The Delhi Land Reforms Act, 1954 (Delhi Act VIII of 1954).
62. The Delhi Land Holdings (Ceiling) Act, 1960 (Central Act 24 of 1960).
63. The Manipur Land Revenue and Land Reforms Act, 1960 (Central Act 33 of 1960).
64. The Tripura Land Revenue and Land Reforms Act, 1960 (Central Act 43 of 1960).

Explanation.—Any acquisition made under the Rajasthan Tenancy Act, 1955 (Rajasthan Act III of 1955), in contravention of the second proviso to clause (1) of article 31A shall, to the extent of the contravention, be void".

Statement of Objects and Reasons.—Article 31A of the Constitution provides that a law in respect of the acquisition by the State of any estate or of any rights therein or the extinguishment or modification of any such rights shall not be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by article 14, article 19 or article 31. The protection of this article is available only in respect of such tenures as were estates on the 26th January, 1950, when the Constitution came into force. The expression "estate" has been defined differently in different States and, as a result of the transfer of land from one State to another on account of the reorganisation of States, the expression has come to be defined differently in different parts of the same State. Moreover, many of the land reform enactments relate to lands which are not included in an estate. Several State Acts relating to land reform were struck down on the ground that the provisions of those Acts were violative of articels 14, 19 and 31 of the Constitution and that the protection of article 31A was not available to them. It is, therefore, proposed to amend the definition of "estate" in article 31A of the Constitution by including therein lands held under *ryotwari* settlement and also other lands in respect of which provisions are normally made in land reform enactments. It is further proposed to provide that where any law makes a provision for the acquisition by the State of any estate and where any land comprised therein is held by a person under his personal cultivation, it shall not be lawful for the State to acquire any such land as is within the ceiling limit applicable to him under any law for the time being in force or any building or structure standing thereon or appurtenant thereto, unless the law relating to the acquisition of such land, building or structure provides for payment of compensation at a rate not less than the market value thereof.

2. It is also proposed to amend the Ninth Schedule by including therein certain State enactments relating to land reform in order to remove any uncertainty or doubt that may arise in regard to their validity."

XVIII. THE CONSTITUTION (EIGHTEENTH AMENDMENT) ACT, 1966

An Act further to amend the Constitution of India

[*27th August, 1966*

BE it enacted by Parliament in the Seventeenth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Eighteenth Amendment) Act, 1966.

2. In article 3 of the Constitution, the following *Explanations* shall be inserted at the end, namely:—

Explanation I.—In this article, in clause (*a*) to (*e*), "State" includes a Union territory, but in the proviso, "State" does not include a Union territory.

Explanation II.—The power conferred on Parliament by clause (a) includes the power to form a new State or Union territory by uniting a part of any State or Union territory to any other State or Union territory.'

XIX. THE CONSTITUTION (NINETEENTH AMENDMENT) ACT, 1966

An Act further to amend the Constitution of India [*11th December, 1966*]

BE it enacted by Parliament in the Seventeenth Year of the Republic of India as follows :—

Short title.

1. This Act may be called the Constitution (Nineteenth Amendment) Act, 1966.

Amendment of article 324.

2. In article 324 of the Constitution, in clause (1), the words "including the appointment of election tribunals for the decision of doubts and disputes arising out of or in connection with elections to Parliament and to the Legislatures of States" shall be omitted.

Statement of Objects and Reasons :

"One of the important recommendations made by the Election Commission in its Report on the Third General Elections in India in 1962, and accepted by the Government relates to the abolition of election tribunals and trial of election petitions by High Courts.

If the proposal for a legislation to amend the Representation of the People Act, 1951, containing *inter alia*, provisions for the trial of election petitions by High Courts instead of by election tribunals, as at present, is accepted by Parliament, it would be necessary to make a minor amendment in clause (1) of article 324 of the Constitution for the purpose of deleting therefrom the words "including the appointment of election tribunals for the decision of doubts and disputes arising out of or in connection with elections to Parliament and to the Legislatures of States".

This Bill is intended to give affect to the aforesaid object."

XX. THE CONSTITUTION (TWENTIETH AMENDMENT) ACT, 1966

An Act further to amend the Constitution of India [*22nd December, 1966*].

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Twentieth Amendment) Act, 1966.

Insertion of new article 233A.

2. After article 233 of the Constitution, the following article shall be inserted, namely:—

"233A. Notwithstanding any judgment, decree or order of any court,—

Validation of appointments of, and judgments, etc., delivered by, certain district judges.

(*a*) (*i*) no appointment of any person already in the judicial service of a State or of any person who has been for not less than seven years an advocate or a pleader, to be a district judge in that State, and

(*ii*) no posting, promotion or transfer of any such person as a district judge,

made at any time before the commencement of the Constitution (Twentieth Amendment) Act, 1966, otherwise than in accordance with the provisions of article 233, or article 235 shall be deemed to be illegal or void or ever to have become illegal or void by reason only of the fact that such appointment, posting, promotion or transfer was not made in accordance with the said provisions;

(*b*) no jurisdiction exercised, no judgment, decree, sentence or order passed or made, and no other act or proceeding done or taken, before the commencement of the Constitution (Twentieth Amendment) Act, 1966 by, or before, any person appointed, posted, promoted or transferred as a district judge in any State otherwise than in accordance with the provisions of article 233 or article 235 shall be deemed to be illegal or invalid or even to have become illegal or invalid by reason only of the fact that such appointment, posting, promotion or transfer was not made in accordance with the said provisions."

Statement of Objects and Reasons :

"Appointments of district judges in Uttar Pradesh and a few other States have been rendered invalid and illegal by a recent judgment of the Supreme Court on the ground that such appointments were not made in accordance with the provisions of article 233 of the Constitution. In another judgment, the Supreme Court has held that the power of posting of a district judge under article 233 does not include the power of transfer of such judge from one station to another and that the power of transfer of a district judge is vested in the High Court under article 235 of the Constitution. As a result of these judgments, a serious situation has arisen because doubt has been thrown on the validity of the judgments, decrees, orders and sentences passed or made by these district judges and a number of writ petitions and other cases have already been field challenging their validity. The functioning of the district courts in Uttar Pradesh has practically come to a standstill. It is, therefore, urgently necessary to validate the judgments, decrees, orders and sentences passed or made heretofore by all such district judges in those States and also to validate the appointment, posting, promotion and transfer of such district judges barring those few who were not eligible for appointment under article 233.

2. The Bill seeks to give effect to the above proposals."

PART IV

ACTS, RULES AND ORDERS UNDER THE CONSTITUTION OF INDIA

I. ARTICLE 11.

1. THE CITIZENSHIP ACT (LVII OF 1955) [30-12-55

An Act to provide for the acquisition and termination of Indian citizenship.

BE it enacted by Parliament in the Sixth Year of the Republic of India as follows :—

Short title.

1. This Act may be called the Citizenship Act, 1955.

Interpretation

2. (1) In this Act, unless the context otherwise requires,—

(*a*) "a Government in India" means the Central Government or a State Government ;

(*b*) "citizen", in relation to a country specified in the First Schedule, means a person who, under the citizenship or nationality law for the time being in force in that country, is a citizen or national of that country ;

(*c*) "citizenship or nationality law", in relation to a country specified in the First Schedule, means an enactment of the legislature of that country which, at the request of the Government of that country, the Central Government may, by notification in the Offical Gazette, have declared to be an enactment making provision for citizenship or nationality of that country ;

Provided that no such notification shall be issued in relation to the Union of South Africa except with the previous approval of both Houses of Parliament ;

(*d*) "Indian consulate" means the office of any consular officer of the Government of India where a register of births is kept, or where there is no such office, such office as may be prescribed ;

(*e*) "minor" means a person who has not attained the age of eighteen years ;

(*f*) "person" does not include any company or association or body of individuals, whether incorporated or not ;

(*g*) "prescribed" means prescribed by the rules made under this Act ;

(*h*) "undivided India" means India as defined in the Government of India Act, 1935, as originally enacted.

(2) For the purposes of this Act, a person born aboard a registered ship or aircraft, or aboard an unregistered ship or aircraft of the Government of any country, shall be deemed to have been born in the place in which the ship or aircraft was registered or, as the case may be, in that country.

(3) Any reference in this Act to the status or description of the father of a person at the time of that person's birth shall, in relation to a person born after the death of his father, be construed as a reference to the status or description

of the father at the time of the father's death ; and where death occurred before, and the birth occurs after the commencement of this Act, the status or description which would have been applicable to the father had he died after the commencement of this Act shall be deemed to be the status or description applicable to him at the time of his death.

(4) For the purposes of this Act, a person shall be deemed to be of full age if he is not a minor, and of full capacity if he is not of unsound mind.

ACQUISITION OF CITIZENSHIP

Citizenship by birth.

3. (*1*) Except as provided in sub-section (2) of this section, every person born in India on or after the 25th January, 1950, shall be a citizen of India by birth.

(2) A person shall not be such a citizen by virtue of this section if at the time of his birth—

(*a*) his father possesses such immunity from suits and legal process as is accorded to an envoy of a foreign sovereign power accredited to the President of India and is not a citizen of India ; or

(*b*) his father is an enemy alien and the birth occurs in a place then under occupation by the enemy.

Citizenship by descent.

4. (*1*) A person born outside India on or after the 26th January, 1950, shall be a citizen of India by descent if his father is a citizen of India at the time of his birth[1] :

Provided that if the father of such a person was a citizen of India by descent only, that person shall not be a citizen of india by virtue of this section unless—

(*a*) his birth is registered at an India consulate within one year of his occurrence or the commencement of this Act, whichever is later, or, with the permission of the Central Government, after the expiry of the said period ; or

(*b*) his father is, at the time of his birth, in service under a Government of India.

(2) If the Central Government so directs, a birth shall be deemed for the purpose of this section to have been registered with its permission, notwithstanding that its permission was not obtained before the registration.

(3) For the purposes of the proviso to sub-section (*1*). any male person born outside undivided India who was, or was deemed to be, a citizen of India at the commencement of the Constitution will be deemed to be a citizen of India by descent only.

Citizenship by registration.

5. (*1*) Subject to the provisions of this section and such conditions and restrictions as may be prescribed, the prescribed authority may, on application made in this behalf, register as a citizen of India any person who is not already such citizen, by virtue of the Constitution or by virtue of any of the other provisions of this Act and belongs to any of the following categories :—

(*a*) persons of Indian origin[2] who are ordinarily resident in India and have been so resident for six months immediately before making an application for registration ;

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1. Thus, a child born in Pakistan after 26-1-50, to a father who is an Indian citizen under Art. 5, is a citizen of India [*Naziranbai* v. *State*, A. 1957 M.B. 1].

2. Sub-cls. (*a*) and (*c*) are mutually exclusive. Hence, though sub-cl. (a) would include persons of India origin in Commonwealth countries who have not acquired the citizenship of those countries, it will not include those who have become citizens of any such Commonwealth country. Such persons, even though of Indian origin, can be registered only under sub-cl. (*c*) and not under sub-cl. (*a*) [*Ghaurul* v. *State of Rajasthan*, A. 1958 Raj. 172].

(*b*) persons of Indian origin who are ordinarily resident in any country or place outside undivided India ;
(*c*) women who are, or have been, married to citizens of India ;
(*d*) minor children of persons who are citizens of India ; and
(*e*) persons of full age and capacity who are citizens of a country specified in the First Schedule ;[3]

Provided that in prescribing the conditions and restriction subject to which persons of any such country may be registered as citizens of India under this clause, the Central Government shall have due regard to the conditions subject to which citizens of India may, by law or practice of that country, become citizens of that country by registration.

Explanation.—For the purpose of this sub-section, a person shall be deemed to be of Indian origin if he, or either of his parents, or any of his grand-parents, was born in undivided India.

(2) No person being of full age shall be registered as a citizen of India under sub-section (*1*) until he has taken the oath of allegiance in the form specified in the Second Schedule.

(3) No person who has renounced,[4] or has been deprived[4] of, his Indian citizenship, or whose Indian citizenship has terminated, under this Act shall be registered as a citizen of India under sub-section (*1*) except by order of the Central Government.

(4) The Central Government may, if satisfied that there are special circumstances justifying such registration, cause any minor to be registered as a citizen of India.

(5) A person registered under this section shall be a citizen of India by registration as from the date on which he is so registered ; and a person registered under the provisions of clause (*b*) (*ii*) of article 5 or article 8 of the Constitution shall be deemed to be a citizen of India by registration as from the commencement of the Constitution or the date on which he was so registered, whichever may be later.

Citizenship by naturalisation.

6. (*1*) Where an application is made in the prescribed manner by any person of full age and capacity who is not a citizen of a country specified in the First Schedule for the grant of a certificate of naturalisation to him, the Central Government may, if satisfied that the applicant is qualified for naturalisation under the provisions of the Third Schedule, grant to him a certificate of naturalisation.

Provided that, if in the opinion of the Central Government, the applicant is a person who has rendered distinguished service to the cause of science, philosophy, art, literature, world peace or human progress generally, it may waive all or any of the conditions specified in the Third Schedule.

(*2*) The person to whom a certificate of naturalisation is granted under sub-section (*1*) shall, on taking the oaths of allegience in the form specified in the

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3. Sub-cl. (*e*) can be applied only if the person satisfies the requirements of the definition of 'citizen' in s. 2 (1) (*b*) and, in deciding this question, it must be seen that the citizenship or nationality law to be taken into consideration satisfies the requirements of s. 2 (1) (*c*). Since the Government of India has not, so far, made any notification in the official Gazette declaring any enactment of Pakistan to be 'an enactment making provision for the citizenship or nationality of that country', it follows that a citizen of Pakistan can not claim registration under sub-cl. (*e*) of s. 5 (1) [*Aslam* v. *Fazal*, A. 1959 All. 79 (*8*)].

4. Cl. (3) means that where the clause applies, registration by the Central Government is necessary instead of the Collector [as under cl. (1)]. But cl. (3) is applicable only if a person was before a citizen of India and then lost that citizenship by renunciation or deprivation, and not to a person who had never before been a citizen of India [*Aslam* v. *Fazal*, A. 1959 All. 79 (*8*)].

Second Schedule, be a citizen of India by naturalisation as from the date on which that certificate is granted.

Citizenship by incorporation of territory.

7. If any territory becomes a part of India, the Central Government may, by order notified in the Official Gazette, specify the persons who shall be citizens of India by reason of their connection with that territory ; and those persons shall be citizens of India as from the date to be specified in the order.

TERMINATION OF CITIZENSHIP

Renunciation of citizenship.

8. (1) If any citizen of India of full age and capacity, who is also a citizen or national of another country, makes in the prescribed manner a declaration renouncing his Indian citizenship, the declaration shall be registered by the prescribed authority ; and, upon such registration, that person shall case to be a citizen of India.

Provided that if any such declaration is made during any war in which India may be engaged, registration thereof shall be withheld until the Central Government otherwise directs.

(2) Where a male person ceases to be a citizen of India under subsection (1), every minor child of that person shall thereupon cease to be a citizen of India.

Provided that any such child may ; within one year after attaining full age, make a declaration that he wishes to resume Indian citizenship and shall thereupon again become a citizen of India.

(3) For the purposes of this section, any woman who is, or has been, married shall be deemed to be of full age.

Termination of citizenship.

9. (1) Any citizen of India who by naturalisation, registration or otherwise voluntarily[5] acquires,[6] or has at any time between the 26th January, 1950 and the commencement of this Act, voluntarily acquire the citizenship of another country, shall, upon such acquisition or, as the case may be, such commencement, cease to be a citizen of India :

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5. The word 'voluntarily' has been used in contradistinction to acquisition of citizenship by the operation of law (*Md.* v. *State of Madras*, A. 1961 Mad. 129).

6. R. 3 of the Rules made under the Citizenship Act provides that the question that a person has obtained a passport from the Government of any other country shall be *conclusive* proof of his having voluntarily acquired the citizenship of that country. In view of this rule, it was held in some cases that the Courts are precluded from examining the question whether a citizen of India has voluntarily acquired the citizenship of another country where it is shown that the person in question has obtained a passport from that country (*Ghurul* v. *State of Rajasthan*, A. 1958 Rajasthan 172 ; *State* v. *Sharifbai*, A. 1959 Bom. 192 ; *Md.* v. *State of Madras*, A. 1961 Mad. 129), but the contrary view was taken in *Md.* v. *Govt. of* A. P., A. 1957 A.P. 1047 ; *Inderlall* v. *Lal Singh*, A. 1961 Rajasthan 122, on the ground that a passport may also be issued by a country to its own citizen by birth or descent. Hence, when a Court examines the question of loss of citizenship, the passport has got a presumptive value but the presumption is rebuttable [*Bakhtiyar Khan* v. *Union of India*, A. 1961 Guj. 109 ; *Ali Sher* v. *State*, A. 1960 All. 431].

The above controversy has, however, been partially obviated by the Supreme Court decision in *Akbar* v. *Union of India*, A. 1962 S.C. 70 (72) that a Civil Court shall have no jurisdiction to determine such question which is governed by s. 9 (2) of the Citizenship Act [see footnote (10), below] But in *Izhar Ahmad* v. *Union of India*, A 1962 SC 1052, the Supreme Court has held that the Rule raises a *conclusive* presumption of law and that even the Supreme Court would abide by it.

7. The expression 'another country' includes Pakistan and other Commonwealth countries though they are not 'foreign States' under the Declaration as to Foreign States Order,

Provided that nothing in this sub-section shall apply to a citizen of India who during any war in which India may be engaged, voluntarily acquires the citizenship of another country, until the Central Government otherwise directs.

(2) If any question arises as to whether, when or how any person has acquired the citizenship of another cuntry,[8] it shall be determined by such authority,[9] in such manner,[10] and having regard to such rules of evidence, as may be prescribed in this behalf.

Deprivation of citizenship.

10. (1) A citizen of India who is such by naturalisation or by virtue only of clause (*c*) of article 5 of the Constitution or by registration otherwise than under clause (*b*) (*ii*) of article 6 of the Constitution or clause (*a*) of sub-section (1) of section 5 of this Act shall cease to be a citizen of India, if he is deprived of that citizenship by an order of the Central Government under this section.

(2) Subject to the provisions of this section, the Central Government may by order, deprive any such citizen of Indian citizenship, if it is satisfied[11] that—

1950 [cf. *Mohammad* v. *State of A. P.*, A. 1957 A.P. 1047 (1053) ; *Noor Md.* v. *State*, A. 1956 M.B. 211 ; *State* v. *Abdul*, A. 1961 Pat. 112 (*115*)].

8. This provision is not, however, relevant for determining whether a person is a 'foreigner' under the Foreigners Act, 1946. The onus of proving that the person upon whom an order under that Act has been made is *not* a foreigner is upon such person, under s. 9 of the Act [*Union of India* v. *Ghaus*, A. 1961 S.C. 1526].

9. Under r. 30 (2) under the Act, such authority is the Central Government. A determination by a State Government, in this matter is, accordingly, void [*Mohammad* v. *Govt. of A. P.*, A. 1957 A.P. 1947]. This now follows from the decision in *State of A. P.* v. *Khader*, A. 1961 S.C. 1467, noted below.

10. A controversy has arisen as to whether s. 9 (2) gives exclusive jurisdiction to the Central Government to determine the question of loss of citizenship by acquisition of citizenship of another country. In some cases [*Abdul Rahman* v. *State of U. P.*, A, 1958 All. 165 (*166*) ; *Nasir Ahmed* v. *Chief Commissioner*, A. 1959 Punj. 261 (*263*)] it was held that the authority mentioned in s. 9 (2) is the exclusive authority to determine the questions and that an application under Art. 226 does not lie to determine it. But in *Sarafat Ali* v. *State of U. P.*, A. 1960 All. 637, it was held that the High Court's jurisdiction under Art. 226 cannot be precluded by the statutory provision. But the jurisdiction of a *Civil Court* to entertain a *suit* to try the question refferred to in s. 9 (2) of the Act (i.e., whether an Indian citizen has acquired the citizenship of another country) has been held to be impliedly barred [*Akbar* v. *Union of India*, A. 1962 S.C. 70 ; the country view taken in cases like *Baktiyar* v. *Union of India*, A, 1961 Guj. 109 is thus overruled], and, in a proceeding under Art. 32, the Supreme Court itself referred the question to be determined by the Central Government [*Izhar Ahmad* v. *Union of India*, A 1962 SC 1052.

But a suit is not barred to determined questions *outside* s. 9 (2), e.g., whether a person ever acquired Indian citizenship [*Akbar* v. *Union of India*, A. 1962 S.C. 70] ; or is an Indian citizen or a foreigner,—as distinct from the question whether a person having once been an Indian citizen has renounced that citizenship and acquired a foreign nationality [*State of A. P.* v. *Khader*, A. 1961 S.C. 1467].

As to the question how far the determination of the Central Government would be binding upon the Civil Court in *collateral proceedings*, there was a difference of opinion [*State* v. *Ibrahim*, A. 1959 Bom. 525, *contra Baktiyar* v. *Union of India*, A. 1961 Guj. 109]. But the controversy has been set at rest by the Supreme Court in *State of A. P.* v. *Khader*, A. 1961 S.C. 1967, by laying down that—

(i) The Central Government is the *exclusive* authority for determining the question referred to in s. 9 (2) and a Civil Court has *no* power to decide this question.

(ii) But there must be a direct decision of the question by the Central Government, in order to apply s. 9 (2).

It follows, therefore, that if the question arises in a proceeding before a Civil Court, it should stay its proceedings and allow the parties to obtain the decision from the Central Government.

(iii) Parties have a right to apply to the Central Government for a decision under s. 9 (2) [*Akbar* v. *Union of India*, A. 1962 S.C. 70 (72)].

11. Though the word 'satisfied' is used, the Supreme Court has held [*Ghaurul* v. *State of*

(*a*) the registration or certificate of naturalisation was obtained by means of fraud, false representation or the concealment of any material fact ; or

(*b*) that citizen has shown himself by act or speech to be disloyal or disaffected towards the Constitution of India as by law established ; or

(*c*) that citizen has during any war in which India may be engaged, unlawfully traded or communicated with an enemy or been engaged in, or associated with, any business that was to his knowledge carried on in such manner as to assist an enemy in that war ; or

(*d*) that citizen has, within five years after registration or naturalisation, been sentenced in any country to imprisonment for a term of not less than two years ; or

(*e*) that citizen has been ordinarily resident out of India for a continuous period of seven years, and during that period, has neither been at any time a student of any educational institution in a country outside India or in the service of a Government in India or of an international organisation of which India is a member, nor registered annually in the prescribed manner at any Indian consulate his intention to retain his citizenship of India.

(3) The Central Government shall not deprive a person of citizenship under this section unless it is satisfied that it is not conducive to the public good that that person should continue to be a citizen of India.

(4) Before making an order under this section, the Central Government shall give the person against whom the order is proposed to be made notice in writing informing him of the ground on which it is proposed to be made and, if the order is proposed to be made on any of the grounds specified in sub-section (2) other than clause (*e*) thereof, his right, upon making application therefor in the prescribed manner to have his case referred to a committee of inquiry under this section.

(5) If the order is proposed to be made against a person on any of the grounds specified in sub-section (*2*) other than clause (*e*) thereof and that person so applies in the prescribed manner, the Central Government shall, and in any other case it may, refer the case to a Committee of Inquiry consisting of a chairman (being a person who has for at least ten years held a judicial office) and two other members appointed by the Central Government in this behalf.

(6) The Committee of Inquiry shall, on such reference, hold the inquiry in such manner as may be prescribed and submit its report to the Central Government ; and the Central Government shall ordinarily be guided by such report in making an order under this section.

SUPPLEMENTAL

Commonwealth citizenship.

11. Every psrson who is a citizen of a Commonwelth country specified in the First Schedule shall, by virtue of that citizenship, have the status of a Commonwealth citizen of India.

Rajasthan, (1961) S.C. (Petn. 60/58)] that when an order of cancellation is challenged, the Government has to established the existence of the statutory conditions *objectively*, e.g., by prcving that the Petitioner obtained registration as a citizen by fraud or suppression of a material fact.

Power to confer rights of Indian citizen on citizens of certain countries.

12. (*1*) The Central Government may, by order[12] notified in the Official Gazette, make provisions on a basis of reciprocity for the conferment of all or any of the rights of a citizen of India on the citizens of any country specified in the First Schedule.

(2) Any order made under sub-section (*1*) shall have effect notwithstanding anything inconsistent therewith contained in any law other than the Constitution of India or this Act.

Certificate of citizenship in case of doubt.

13. The Central Government may, in such cases as it thinks fit, certify that a person, with respect to whose citizenship of India a doubt exists, is a citizen of India ; and a certificate issued under this section shall, unless it is proved that it was obtained by means of fraud, false representation or concealment of any material fact, be conclusive evidence that, that person was such a citizen on the date thereof, but without prejudice to any evidence that he was such a citizen at an earlier date.

Disposal of application under sections 5 and 6.

14. (*1*) The prescribed authority or the Central Government may, in its discretion, grant or refuse an application under section 5 or section 6 and shall not be required to assign any reasons for such grant or refusal.

(2) Subject to the provisions of section 15, the decision of the prescribed authority or the Central Government on any such application as aforesaid shall be final and shall not be called in question in any court.

Revision.

15. (*1*) Any person aggrieved by an order made under this Act by the prescribed authority or any officer or other authority (other than the Central Government) may, within a period of thirty days from the date of the order make an application to the Central Government for a revision of that order :

Provided that the Central Government may entertain the application after the expiry of the said period of thirty days, if it is satisfied that the applicant was prevented by sufficient cause from making the application in time.

(2) On receipt of any such application under sub-section (*1*), the Central Government shall, after considering the application of the aggrieved person and any report thereon which the officer or authority making the order may submit, make such order in relation to the application as it deems fit and the decision of the Central Government shall be final.

Delegation of powers.

16. The Central Government may, by order, direct that any power which is conferred on it by any of this Act other than those of section 10 and section 18 shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercisable also by such officer or authority as may be so specified.

Offences.

17. Any person who, for the purpose of procuring anything to be done or not to be done under this Act, knowingly makes any representation which is false in a material particular shall be punishable with punishment for a term which may extend to six months, or with fine, or with both.

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12. So long as no such order is made, a Commonwealth citizen cannot, *ipso facto*, claim any of the rights of a citizen of India [*Noor Md.* v. *State*, A. 1956 M.B. 211 (*215*)]. Since no such order has so far been made regarding Pakistan, citizens of Pakistan cannot claim any rights of Indian citizenship even though they are Commonwealth citizens [*Nizaranbai* v. *State*, A. 1957 M.B. 1 (*3*)].

Power to make rules.

18. (*1*) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the registration of anything acquired or authorised under this Act to be registered, and the conditions and restrictions in regard to such registration ;

(*b*) the forms to be used and the registers to be maintained under this Act ;

(*c*) the administration and taking of oaths of allegiance under this Act, and the time within which, and the manner in which, such oaths shall be taken and recorded ;

(*d*) the giving of any notice required or authorised to be given by any person under this Act ;

(*e*) the cancellation of the registration of, and the cancellation and amendment of certificates of naturalisation relating to, persons deprived of citizenship under this Act, and the delivering up of such certificates for those purposes ;

(*f*) the registration at Indian consulates of the births and deaths of persons of any class or description born or dying outside India ;

(*g*) the levy and collection of fees in respect of applications, registrations, declarations and certificates under this Act, in respect of the taking of an oath of allegiance, and in respect of the supply of certified or other copies of documents ;

(*h*) the authority to determine the question of acquisition of citizenship of another country, the procedure to be followed by such authority and rules of evidence relating to such cases ;

(*i*) the procedure to be followed by the committees of inquiry appointed under section 10 and the conferment on such committees of any of the powers, rights and privileges of civil courts ;

(*j*) the manner in which applications for revision may be made and the procedure to be followed by the Central Government in dealing with such applications ; and

(*k*) any other matter which is to be, or may be, prescribed under this Act.

(3) In making any rule uner this section, the Central Government may provide that a breach thereof shall be punishable with fine which may extend to one thousand rupees.

(4) All rules made under this section shall, as soon as may be after they are made, be laid for not less than fourteen days before both Houses of Parliament and shall be subject to such modifications as Parliament may make during the session in which they are so laid.

Repeals.

19. (*1*) The British Nationality and Status of Aliens Acts, 1914 to 1943, are hereby repealed in their application to India.

(2) All laws relating to naturalisation which are in force in any part of India are hereby repealed.

THE FIRST SCHEDULE

[*See sections* 2(13) (*b*) and 5 (1) (*e*)]

A. The following Commonwealth countries :—

1. United Kingdom.
2. Canada.
3. Commonwealth of Australia.
4. New Zealand.
5. Union of South Africa.
6. Pakistan.
7. Ceylon.
8. Federation of Rhodesia and Nyasaland.
9. *Ghana.*
10. *Federation of Malaya.*
11. *Singapore.*

B. The Republic of Ireland.

Explanation.—In this Schedule, United Kingdom" means the United Kingdom of Great Britain and Northern Ireland. and includes Channel Islands, the Isle of Man and all Colonies ; and "Commonwealth of Australia" includes the territories of Papua and the territory of Norfolk Island.

THE SECOND SCHEDULE

[*See sections* 5(2) and 6(2)]

OATH OF ALLEGIANCE

I. A. B.....do solemnly affirm (or swear) that I will bear true faith and allegiance to the Constitution of India as by law established and that I will faithfully observe the laws of India and fulfil my duties as a citizen of India.

THE THIRD SCHEDULE

[*See* section 6(1)]

QUALIFICATIONS FOR NATURALISATION

The qualifications for naturalisation of a person who is not a citizen of a country specified in the First Schedule are :—

(*a*) that he is not a subject or citizen of any country where citizens of India are prevented by law or practice of that country from becoming subjects or citizens of that country by naturalisation ;

(*b*) that, if he is a citizen of any country, he has renounced the citizenship of that country in accordance with the law therein in force in that behalf and has notified such renunciation to the Central Government :

(*c*) that he has either resided in India or been in the service of a Government in India or partly the one and partly the other, throughout the period of twelve months immediately preceding the date of the application ;

(*d*) that during the seven years immediatlely preceding the said period of twelve months, he has either resided in India or been in the service of a Government in India, or partly the one and partly the other, for periods amounting in the aggregate to not less than four years ;

(*e*) that he is of good character ;

(*f*) that he has an adequate knowledge of a language specified in the Eighth Schedule to the Constitution ; and

(*g*) that in the event of a certificate of naturalisation being granted to him, he intends to reside in India, or to enter into, or continue in, service under a Government in India or under an international organisation of which India is a member or under a society, company or body of persons established in India :

Provided that the Central Government may, if in the special circumstances of any particular case it thinks fit,—

(*i*) allow a continuous period of twelve months ending not more than six months before the date of the application to be reckoned, for the purposes of clause (*c*) above, as if it had immediately preceded that date ;

(*ii*) allow periods of residence or service earlier than eight years before tha date of the application to be reckoned in computing the aggregate mentioned in clause (*d*) above.

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2. THE CITIZENSHIP RULES, 1956.[1]

S.R.O. 1574, dt. 7-7-56.—In exercise of the powers conferred by section 18 of the Citizenship Act, 1955 (57 of 1955), the Central Government hereby makes the following rules, namely—

PART 1—PRELIMINRAY.

1. Short title and commencement.—(1) These rules may be called the Citizenship Rules, 1956.

(2) They shall come into force at once.

2. Definitions.—In these rules, unless the context otherwise requires,—

(a) the "Act" means the Citizenship Act, 1955 (57 of 1955) ;

(b) "Collector" means in the Presidency—town of Bombay, Calcutta or Madras, the Collector thereof, and elsewhere the chief officer-in-charge of the revenue-administration of a district, and includes such other officer as the Central Government may, by notification in the Official Gazette, appoint to perform the functions of the Collector under these Rules in respect of any area ;

(c) "Form" means a form in Schedule I ;

(d) "Schedule" means a Schedule to these Rules ,

(e) "Secretary" means the Secretary or a Joint Secretary to the Government of India in the Ministry of Home Affairs ;

(f) "Section" means a section of the Act.

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1. Gaz. of India, Extraordinary, Part II, sec. 3,

PART II—CITIZENSHIP OF INDIA BY REGISTRATION.

3. Form of application for registration under section 5(1) (a) (1).—An application for registration as a citizen of India made under section 5(1) (a) shall be in Form I.

(2) The oath of allegiance given at the end of the Form shall be affirmed (or sworn), subscribed and attested before making the application.

4. Form of application for registration under section 5(1)(c)(1).—An application by a woman for registration as a citizen of India made under section 5(1) (c) shall be in Form II and shall be accompanied by documentary evidence to show that the applicant has renounced or lost the citizenship of her country in accordance with the law in force therein or by an undertaking in writing that she will renounce that citizenship in the event of her application being sanctioned.

(2) The oath of allegiance given at the end of the Form shall be affirmed (or sworn), subscribed and attested before making the application.

(3) An application under sub-rule (1) shall not lie unless for one year immediately before the date of application, the applicant—

(a) has resided in India ; or

(b) has been in the service of a Government in India.

Explanation—In computing the period of one year, broken periods of residence and service under clauses (a) and (b) may be taken into account.

(4) Notwithstanding anything contained in sub-rule (3), in the case of a woman married to a person in the service of a Government in India the Central Government may, if in the special circumstances of the case it thinks fit, exempt such person of that sub-rule.

5. Form of application for registration under section 5(1).—An application for the registration of a minor child of a citizen of India as a citizen thereof made under section 5 (1) (d) shall be in Form III and shall include the following particulars, that is to say—

(a) a statement whethere the applicant is a parent or guardian of the child. and, if he is a guardian, how he bec ame a guardian ;

(b) a statement showing that each of the parents of the child is, or, if deceased, was at the time of death, a citizen of India ;

(c) a statement of the reasons for which it is desired that the child should be registered as a citizen of India.

6. Form of application for registration under section 5(4).—An application for the registration of a minor child as a citizen of India made under section 5 (4) shall be in Form IV and shall include the particulars specified in clauses (a) and (c) of rule 5.

7. Authority to which application is to be made.—An application for registration shall be made to the collector within whose jurisdiction the applicant is ordinarily resident.

8. Authority to register as citizens.—The authority to register a person as a citizen of India under sec. 5 (1) (a) or section 5 (1) (d) shall be the Collector, and in any other case under these Rules, the Central Government.

9. Collector to make inquiries before registration.—The Collector shall, before registering a person under sec. 5 (1) (a), satisfy himself that the person—

(a) is of Indian origin and has been actually resident in India for six months immediately precedlng the date of application ;

(b) has close connections in India ;

(c) has an intention to make India his permanent home ;

(d) has signed the oath of allegiance as prescribed in the form of application ;

(e) is of good character and is otherwise a fit and proper person to be registered as a citizen of India.

10. Certificate of registration to be granted to persons registered.—

(1) Every person who is registered as a citizen of India under section 5 (1) (a) or section 5 (1) (d) shall be issued a certificate of registration Form V.

(2) Every person who is registered as a citizen of India under section 5 (1) (c) or section 5 (4) shall be issued a certificate of registration in Form VI.

(3) When a certificate of citizenship is issued under sub-rule (1) or sub-rule (2), a duplicate copy thereof shall be prepared and preserved for record by the issuing authority.

11. Register of persons registered under section 5 (1) (a), to be kept by each Collector.—There shall be kept by each Collector :

(a) register containing the names of persons registered as citizens of India under sec. 5 (1) (a), in Form VII Part I ;

(b) a register containing the names of minor children registered as citizens of India under sec. 5 (1) (d), in Form VIII—Part I ;

(c) a register containing the names of persons whose applications for registration as citizens of India under section 5 (1) (d) have been rejected, in Form VII—Part II ;

(d) a register containing the names of the minor children whose applications for registration as citizens of India under sec. 5 (1) (d) have been rejected, in Form VIII—Part II.

12. Register of persons registered under section 5 (1) (c) and 5 (4).—There shall be kept by the Central Government in the Ministry of Home Affa irs ;

(a) a register containing the names of the women registered as citizens of India under sections 5 (1) (c) in Form IX ;

(b) a register containing the names of the children registered as citizens of India under section 5 (4) in Form X.

13. Manner of making entries in register.—All entries made in the registers kept under rule 11 and rule 12 shall be numbered consecutively and each entry shall relate to one person only.

14. Copies of entries in register to be sent quarterly to Home Ministry.—Before the last day of April, July, October, and January, of each year, the Collector shall transmit to the Secretary, in From XI, a copy each of all the entries made during the three months ending with March, June, September or December, as the case may be, in registers kept by him and such copy shall be certified by that authority to be correct under his hand and seal.

15. Maintenance of register and connected papers.—(1) Every entry made in the register kept under rule 11 and rule 12, shall be authenticated after a person is registered as a citizen of India.

(2) The registers and all papers connected with every application shall be preserved for permanent record.

16. Action to be taken when application for registration under section 5 (1) (a) or 5 (1) (d) is refused.—When an application for registration under section 5

(1) (a) or sec. 5 (1) (d) is refused, the registering authority shall without delay inform the applicant of the order passed by it on the application.

16A. Registration of citizens of Singapore under sec. 5 (1) (e).—(1) An application by a citizen of Singapore for registration as a citizen of India under section 5 (1) (e) shall be in Form XIX.

(2) The oath of allegiance given at the end of the Form shall be affirmed (or sworn), subscribed and attested before making the application.

(3) An application under sub-rule (1) shall not lie unless, the applicant—

(a) is of full age and capacity,
(b) is of good character, and
(c) has resided in India for period of two years immediately preceding the date of application.

(4) Every person who is registered as a citizen of India under section 5 (1) (e) shall be issued a certificate of registration in Form XX. When such a certificate is issued, a duplicate copy thereof ahall be prepared and preserved for record by the issuing authority.

16B. Register of persons registered under section 5(1) (e).—There shall be kept by the Central Government in the Ministry of Home Affiars, a register containing the names of the persons registered a citizens of India under section 5 (1) (e) In Form XXI.

PART III—NATURALISATION AND RESUMPTION OF INDIAN CITIZENSHIP.

17. Form of application for naturalisation.—(1) An application for a certificate of naturalisation shall be made to the Secretary in Form XII.

(2) Such application shall be accompanied by—

(i) duly stamped affidavits from the applicant and two respectable Indian citizens testifying to the character of the applicant and the correctness of the statements made in the application ; and
(ii) a certificate to the effect that the applicant has an adequate knowledge of one of the languages specified in the Eighth Schedule to the Constitution.

18. Form of certificate of naturalisation (1).—A certificate of naturalisation shall be in Form XIII and shall be signed by the Secretary.

(2) There shall be kept by the Central Government in the Ministry of Home Affairs a register in Form XIV containing the names of person to whom certificates of naturalisation are granted under this rule.

19. Oath of allegiance for purpose of naturalisation.—(1) The oath of allegiance required by sec. 6 (2) to be taken by a person to whom a certificate of naturalisation is granted shall be subscribed and attested in Form XIII and as so subscribed and attested shall be endorsed on the certificate of naturalisation to which it relates.

(2) The oath of allegiance reqiured as aforesaid shall be taken within one calendar month of the date of the certificate of naturalisation to which it relates, or within such extended time as the authority which granted the certificate may permit, and if the oath is not taken within the said time, the certificate shall have no effect :

Provided that permission shall not be deemed to have been given under this sub-rule unless a statement to that effect is endorsed on the certificate and signed by a person authorised by rule 18 to sign a certificate of naturalisation.

(3) The oath of allegiance required as foresaid shall be registered by such person and in such place as the authority which grants the certificate may direct.

(4) When the oath of allegiance is registered in accordance with any direction given under sub-rule (3), the authority which registeres it shall cause a copy of the oath and of the certificate of naturalisation to which it relates to be sent to the Secretary.

20. Declaration of intention to resume Indian citizenship.—(1) A declaration of intention to resume citizenship under the proviso to section 8(2) shall be in Form XV, and the oath of allegiance in that Form shall be duly subscribed and attested.

(2) Every such declaration shall be registered in the Ministry of Home Affairs of the Government of India.

(3) No such declaration shall be registered unless the declarant has taken the oath of allegiance given at the and of the Form.

(4) There shall be kept by the Central Government in the Ministry of Home Affairs a register in Form XVI containing the names of persons whose declaration of intention to resume Indian citizenship are registered under this rule.

PART IV—RENUNCIATION AND DEPRIVATION OF CITIZENSHIP OF INDIA.

21. Declaration of renunciation of citizenship.—(1) A declaration of renunciation of citizenship of India made under section 8(1) shall be in Form XVII, and shall state—

(a) under what provisions of law the applicant is an Indian citizen ; and

(b) the circumstances in which the applicant is also a foreign citizen or national.

(2) The declaration shall be registered in the Ministry of Home Affairs of the Government of India.

(3) There shall be kept by the Central Government in the Ministry of Home Affairs a register in Form XVIII containing the names of persons whose declaration of intention to renounce citizenship are registered under this rule.

22. Notice of proposed deprivation of citizenship.—(1) When it is proposed to make an order under section 10 depriving a person of his citizenship of India, notice under sub-section (4) of that section shall be given—

(a) in a case where that person's whereabouts are known, by causing the notice to be delivered to him personally or by sending it to him by post ;

(b) in a case where that person's whereabouts are not known, by sending it to his last known address.

(2) Where the Central Government has given notice as aforesaid and the person to whom it is given has the right on making application therefor to have his case referred to a Committee of Inquiry under section 10 (5), the application shall be made—

(a) if that person is in India at the time when the notice is given to him, within three months from the giving of the notice ;

(b) in any other case, within such time not being less than three months from the giving of the notice, as the Central Government may determine :

Provided that the Central Government may in special circumstances at any time extend the time within which the application may be made.

(3) Any notice given in accordance with the provisions of this rule shall, in a case in which the person to whom it is given has the right, on making application therefor, to have his case referred to a Committee of Inquiry under section 10 (5), include a statement of the time within which such application must be made.

23. Order depriving a person of Indian citizenship to be published.—An order depriving a citizen of India of the citizenship of India shall be published in the Gazette of India.

24. Cancellation of certificate of naturalisation in case of deprivation of citizenship.—(1) Where an order has been made depriving a person naturalised in India of his citizenship of India, the person so deprived or any other person in possession of the relevant certificate of naturalisation shall, if required by notice in writing given by the Central Government, deliver up the said certificate to such person and within such time as may be specified in the notice.

(2) (a) If the said certificate is so delivered, it shall be cancelled.

(b) If the said certificate is not so delivered, the Central Government shall direct that it shall be treated as cancelled, but without prejudice to any action which may be taken under subrule (3).

(3) If any person fails to comply with any notice given under sub-rule (1), he shall be punishable with fine which may extend to one thousand rupees.

25. Committee to follow procedure in Schedule II in holding inquiry.—A Committee of Inquiry appointed under section 10 shall, while holding the Inquiry under sub-section (6) of that section, follow the procedure laid down in Schedule II.

PART V—SUPPLEMENTAL.

26. Variations in form of application or declaration.—Where a person wishes to make an application or declaration under any of these Rules and the form referred to in the rule is, in the opinion of the Central Government or other authority to whom the application is to be sent for registration, unsuitable to the particular case, the Central Government or that other authority, as the case may be, may authorise the application or declaration being made in some other form.

27. Certificate of citizenship in case of doubt.—A certificate of citizenship in case of doubt issued uuder section 13 shall be in Form VI and shall be signed by the Secretary.

28. Persons before whom application or declaration may be made or by whom oath of allegiance may be administered.—An application or declaration made in accordance with these Rules shall not be accepted or registered and the oath of allegiance required by sec. 5 (2) or sec. 6 (2) shall be of no effect unless it is signed in the presence of or administred by one of the following persons—

(i) In India—
the Collector, Dy. Commissioner, District Magistrate or any other person for the time being authorised by law, in the place where the applicant, declarant, or deponent is, to administer an oath for any judicial or other legal purposes ;

(ii) Elsewhere—
any Consular officer as defined in rule 2 (d) of the Citizens (Registration at Indian Consulates) Rules, 1956 ;

Provided that if the applicant, declarant or deponent is serving in India in the naval, military or air forces of the Union the application or declaration may be signed in the presence of, or the oath administered by any officer holding a commission in any of these forces.

29. Certivation of documents.—A document may be certified to be a true copy of a document by means of a statement in writing to that effect signed by any of the persons before whom the application or declaration may be made or by whom the oath of allegiance may be administered.

30. Authority to determine acquisition of citizenship of another country.—(1) If any question arises as to whether, when or how any person has acquired the citizenship of another country, the authority to determine such question shall, for the purposes of section 9 (2), be the Central Government.

(2) The Central Government shall in determining any such question have due regard to the rules of evidence specified in Schedule III.

31. Fees.—(1) The fees specified in Schedule IV shall be levied and collected in respect of the matters referred to in that Schedule :

Provided that no fee shall be levied and collected in respect of any of the said matters from a person of Indian origin who makes an application under section 5 (1) (a) or section 5 (1) (d).

(2) Of the fee payable in respect of the grant of a certificete of naturalisation, a sum of Rs. 15 shall be payable on the submission of the application for a certificate and shall in no circumstances be refunded and the balance shall be payable on the receipt of the decision to grant a certificate

SCHEDULE I

[*Seee rule 2(c)*]

This form when completed should be forwarded in duplicate to the local registering authority (of the place where the applicant is residing).

FORM I

[*See rule 3*]

[CITIZENSHIP ACT, 1955, SECTION 5(1) (a)]

Application for registration as a citizen of India under section 5(1) (a) of the Act made by a person of Indian origin.

PART I

1. I, A-B of (here insert address of applicant showing village or town, Police Station, and name of the State) am of full age and capacity and was born (with Tehsil, District and Province or State) on.....
2. My father's full name is/was.....
   and he was born at.....
3. My mother's full name is/was.....and she was born at.....
   on.....
4. I am single/married/a widower/ widow/divorced/from my wife/husband.
5. My wife's/husband's full name is/was.....
6. My age on the date of the application is.....
7. Marks of identification.....
8. (a) I am ordinarily resident in India and have been resident for the six months immediately preceding the date of application (here state the addresses at which the applicant was ordinarily resident during the past six months, with dates in each case).....

(b) I am in the service of a Government in India (here state the name and the department in which the applicant is employed, whether the department forms part of the Government of India, or a State Government, the capacity in which the applicant is employed and the date of his or her appointment).....

9. Profession or occupation other than Government service (here state details regarding designation, name and address of employer, station of posting, etc.)

10. Passport particulars, if any :
    (a) Number.....
    (b) Place and date of issue.....
    (c) Name of issuing authority.....

11. Particulars of visa, if any, held by the applicant :
    (a) No. and date of visa.....
    (b) Place of issue.....
    (c) Name of issuing authority.....
    (d) Period of authorised residence specified in the visa.....
    (e) If extended, please quote authority.....

12. Description of immovable property and/or business interests in india :

Place	Brief description of property/business interests.	At present in possession of.

13. Details of family members who are staying in India with the applicant :

Sl No.	Name	Present Address	Relationship	Age

14. Details of members of family and other relations left in a country other than India :

Sl. No.	Name	Present Address	Relationship	Age

PART II

15. (a) Profession or occupation while residing in Pakistan.

(b) whether applicant is/was in employment under the Central or any Provincial or State Government of Pakistan, if so, the capacity in whic he/she is/was employed.

16. Whether the applicant at any time applied for the grant of any long term visa for India for permanent resettlement in India, if so, with what result.

17. Whether the applicant was, at the time of partition residing in territory now included in Pakistan or India (give full address).

If the latter, state

(a) the date of migrating from India.....

(b) the circumstances in which applicant left India for Pakistan.....

18. Place (s) of residence in India prior to migration :

From	To	Place of residence and address.
(a)		
(b)		
(c)		
(d)		

19. Description of immovable property and/or business interests in Pakistan owned or acquired by or allotted to applicant or to any person with whom he has joint property or partnership or who is his employee or agent for purposes of ownership of allotment :

Place	Brief description of property/business interest	At present in possession of.

20. Whether the property shown in item 12 or 19 has been treated as evacuee property.....

21. Whether the applicant has at any time been convicted for contravention of Passport/Permit Regulations or any other offence. If so, full details to be given.....

22. Civil or criminal proceedings pending against applicant in (1) India and (2) Pakistan (full details to be givin).....

PART III

23. I have/have not previously renounced or been deprived of the citizenship of India.....

(If the applicant has renounced his or her Indian citizenship here state the date on which the declaration of renunciation was made ; or if he or she has been deprived of his or her citizenship, state the date on which and the authority by whom, the order of deprivation was made).

24. I have/have not previously applied for registration as a citizen of India and the application has not been rejected.....

25 Names and full addresses of two references in India to whom the applicant is well known :

(1) .....(2).....

26. I declare that my intention is to make India my permanent home ; and I hereby apply to be registered as a citizen of India.

I, A-B do solemnly and sincerely declare that the foregoing particulars stated in this application are true, and I make this solemn declaration conscientiously believing the same to be true.

Signature.....

Made and subscribed this————day of————19————before me

Signature.....

Designation.....

I, the undersigned, hereby state that I am an Indian citizen otherwise than by naturalisation ; that I am a householder ; and that I am not the solicitor or agent of.....I vouch for the correctness of the statements made by .....in his application for.....

Signature.....

Date..... Name .....
(in BLOCK LETTERS)

Full postal address.....

I, A-B————do solemnly affirm (or swear) that I will bear true faith and allegiance to the Constitution of India as by law established, and that I will faithfully observe the laws of India and fulfil my duties as a citizen of India.

Signature.....

Affirmed/Sworn and subscribed this————day of————19————before me.

Signature.....

Designation..... .....

FORM II

[*See rule 4*]

[CITIZENSHIP ACT, 1955—SECTION 5 (1) (c)]

Application for registration as a citizen of India under sec 5 (1) (c) of the Act made by a woman who is/has been married to a citizen of India.

1. I, A-B of (here insert address of applicant) was born at————on————
2. My father's full name is/was..... and he was born at.....
3. I was married at..... on.....to C-D (here insert full name of husband) of/late of (here insert husband's address, or last address if he is deceased).....
4. My husband was born at.....on.....

5. My husband's father's full name is/was.....and he was born at..... on.....

6. My marriage is still subsisting/has terminated by reason of.....(If the marriage is not subsisting, state whether it was terminated by the husband's death or by divorce).....

7. My husband is/was a citizen of India by reason of the fact that (here state the grounds on which it is claimed that the applicant's husband is or was a citizen of India).....

8. I have resided in India or been in the service of a Government in India or partly the one and partly the other, throughout the period of twelve months immediately preceding the date of application :

Details of residence	Form date	To date	Address and/or details of service under Government of India.

9. I have renonnced/lost the citizenship of my country in accordance with the law therein in force in that behalf.....(Here list the documents attached to prove the fact of such renunciation).....

10. I undertake that I will renounce the citizenship of my country in the event of my application being sanctioned.

11. I have contracted the following other marriages (here state place and date of marriage and name and nationality or citizenship of husband in each case).....

12. I have/have not previously renounced or been deprived of the citizenship of India.....(If the applicant has renounced her Indian citizenship, here state the date on which the declaration of renounciation was made ; and if she has been deprived of her citizenship, state the date on which and the authority by whom, the order of deprivation was made).....

13. I hereby apply to be registered as a citizen of India.....

14. I, A-B, do solemnly and sincerely declare that the foregoing particulars stated in this application are true, and I make this solemn declaration conscientiously believing the same to be true.

Signature.....

Made and subscribed this————day of————19 , before me.

Signature.....

Designation.....

I, the undersigned, hereby state that I am an Indian citizen otherwise than naturalisation ; that I am a householder ; and that I am not the solicitor or agent of.....I vouch for the correctness of the statements made.....in her application for.....

Signature.....

Name.....
(in BLOCK LETTERS)

Date..... Full postal address.....

Oath of allegiance

I, A-B, do solemnly affirm (or swear) that I will bear true faith and allegiance to the Constitution of India as by law established, and that I will faithfully observe the laws of India and fulfil my duties as a citizen of India.

Signature.....

Affirmed/Sworn and subscribed this———day of———19 , before me.

Signature.....

Designation.....

This form when completed should be forwarded in triplicate to the Chief Secretary to the Government of the State in which the applicant is resident.

FORM III

(See rule 5)

CITIZENSHIP ACT, 1955—Section 5(1) (d)

Application for the registration of a minor child.

1. Full name of the minor child.....
   (in BLOCK LETTERS)
   If he/she has been known by another name, enter that name here.....
2. Father's full name.....
   (in BLOCK LETTERS)
   Mother's full name.....
   (in BLOCK LETTERS)
   Grounds on which applicant's parents claim Indian citizenship.....
3. Minor's full period of residence in India.....

With whom residing	From date	To date	Address

Application

I,.....am a citizen of India and a parent guardian of.....to whom the foregoing particulars relate. I hereby apply on behalf of my/the child for his/her registration as a citizen of India.

Date..... Signature of applicant.....

I, the undersigned, hereby state that I am an Indian citizen otherwise than by naturalisation ; that I am a householder ; and that I am not the solicitor or agent of.....I vouch for the correctness of the statements made by.....in his application for.....

Signature.....

Date..... Name.....
(in BLOCK LETTERS)

Full postal address.....

Declaration

I, A-B do solemnly and sincerely declare that the foregoing particulars stated in the application are true and I make this solemn declaration conscientiously believing the same to be true.

Date..... Signature.....

Made and subscribed this———day of————19 , before me.

Signature.....

Designation .....

This form when completed should be forwarded in triplicate to the Chief Secretary to the Government of the State in which the applicant is resident.

FROM IV

(See rule 6)

CITIZENSHIP ACT' 1955-Section 5(4)

Application for the registration of a Minor child.

1. Full name of the minor child in country of origin.....
(in BLOCK LETTERS)

If he/she has been known by another name, enter that name here.....

Present address.....

Occupation .....

Place and date of birth.....

Nationality or citizenship at birth.....

Present nationality if different.....

If stateless, say how nationality was lost.....

2. Father's full name in his country of origin.....
(in BLOCK LETTERS)

Nationality or citizenship.....

Country of origin.....

Mother's full name in her country of origin.....
(in BLOCK LETTERS)

Nationality or citizenship.....

Country of origin.....

3. Particulars of residence with address :

	From date	To date	Years	Months
(a) India				
(b) Other countries				

The minor's intentions with regard to future residence, if this application is granted, are as follows :.....

4. Approximate date of any previous application for naturalisation or registration.....

Ref. no., if known

Particulars of any change of nationality or of citizenship since birth :

Nationality or citizenship acquired.	Date acquired
.....	

Reasons for and the manner of change of nationality or citizenship.....

5. Details of all proceedings of any kind (civil or criminal) taken against the minor in Court of law :

Nature	Date	Place	Result
.....			

6. The minor's knowledge of a principal Indian language (to be mentioned) is slight/fair/good/excellent.....

7. Reasons for which the applicant desires to acquire citizenship of India.....

8. Names and particulars of near relations in India :.....

Sl. No.	Name	Present Address	Relationship	Age

Application

(Complete either (a) or (b) or (c) or (d) of this portion of application and cross out whichever sections are inappropriate)

The minor child

(a) I,.....the minor child to whom the foregoing particulars relate, hereby apply for registration as a citizen of India and attach the consent of my parent/ guardian to this application.

The parent who is citizen of India

(b) I,.....am a citizen of India and a parent of.....to whom the foregoing particulars relate, I hereby apply on behalf of my child for his/her registration as a citizen of India.

The parent who is not a citizen of India.

(c) I,.....am a parent of.....to whom the foregoing particulars relate and am a national/citizen of the State of.....and I hereby apply on behalf of...for his/her registration as a citizen of India.

The guardian

(d) I,.....am the (sole) natural/appointed guardian of.....to whom the foregoing particulars relate, who has not living parent/whose parent or parents are living and resident in,.....I am duly authorised by the Court or by the minor

child's father (or mother in the event of his death) whose consent is attached, and I hereby apply on behalf of.....for his/her registration as a citizen of India.

The reasons for this application are

Date Signature of applicant

Declaration

I do solemnly and sincerely declare that the particulars stated in this application are true and I undertake to inform the Secy. immediately, if, before the registration now applied for is effected the particulars given above require amendment, in consequencee of any change in (a) my circumstances ; (b) the circumstances of the minor child, and I make this solemn declaration conscientiously believing the same to be true.

Signature of applicant .....

Minor child/Parent/Guardian.....

Made and subscribed this.....day of.....19 , before me.

Signature and designation of the officer authorised under rule 28 of the Citizenship Rules, 1956, before whom the registration, declaration or oath of allegiance is made or taken.

I, the undersigned hereby state that I am a householder and an Indian citizen otherwise than by naturalisation. I am not the solicitor or agent of and I vouch for his/her good character and loyalty.

I support this application from personal knowledge of and intimate acquaintance with the applicant for years.

Signature.....

Date.....19 Name.....
(in BLOCK LETTERS)
.....
Full postal address

2. I, the undersigned hereby state that I am a householder and an Indian citizen otherwise than by naturalisation. I am not the solicitor or agent of..... and I vouch for his/her good character and loyalty. I support this application from personal knowledge of and intimate acquaintance with the applicant for..... years.

Signature.....

Date.....19 Name.....
(in BLOCK LETTERS)
.....
Full postal address

FORM V

[*See rule 10*]

Certificate of registration

No.

Name of Registering Authority
Place

This is to certify that the person whose particulars are given below has been registered by me as a citizen of India under the provisions of section 5 (1) (a)/(d) of the Citizenship Act, 1955.

1. Name.....
2. Name of father/mother or husband.....

3. Place of birth.....

4. Age.....

5. Present address.....

6. Special peculiarities and identification marks.....

7. Occupation.....

(Seal) Signature / Designation } of registering authority

Signature/thumb impression of the grantee made in the presence of the issuing authority.....

Date and place of issue.....

FORM VI

[*See rules 10 (2) and 27*]

[CITIZENSHIP ACT, 1955]

Certified that.....whose particulars and photograph are furnished below, has prima facie satisfied the conditions laid down in the Constitution of India/ Citizenship Act, 1955 and is accordingly recognised as a citizen of India.

Particulars

Age..... Name and surname..... (in BLOCK LETTERS)

Height..... Date of birth.....

Hair..... Nationality of origin.....

Eyes..... Surname and forenames of father..... (in BLOCK LETTERS)

Special peculiarities and identification marks..... Occupation or profession.....

Present residence in India.....

PHOTOGRAPH

Signature of the grantee made in the presence of the issuing authority.....

..... Date and place of issue

..... Signature and designatiou of the issuing authority

FORM VII—PART I

[*See rule 11 (a)*]

Place..... Registering authority.....

Sl. No.	Name	Father's Name	Date of birth	Last permanent address outside India	Date from which resident in India	Present address	Date of registration	* Remarks (nature of evidence produce re. the eligibility for registration)
1	2	3	4	5	6	7	8	9

* Entries under this column should be sufficiently detailed to facilitate checking at a future date, if necessary. When the evidence is in the form of a certificate, the name and the address of the person signing the certificate should be entered here.

Note : Sl. No. in this register should correspond with the no. in the registration certificate.

FORM VII—PART II

[*See rule 11 (c)*]

Place..... Registering authority.....

Sl. No.	Name	Father's name	Date of birth	Last permanent address outside India	Date from which resident in India	Present address	Date of rejection	*Remarks (brief reasons why the application has been rejected)
1	2	3	4	5	6	7	8	9

* Entries under this column should be sufficiently detailed to facilitate checking at a future date, if necessary. Once an application is rejected, it should be possible to identify the person, if he again makes an application.

FORM VIII—PART I

[*See rule 11 (b)*]

Citizenship Act, 1955-Register of minor children registered as Indian citizens under section 5 (1) (d)

Sl. No.	Name	Father's name	Date of birth	Present address	Date of registration	* Remarks (nature of evidence produced reg. the eligibility for registration)
1	2	3	4	5	6	7

* Entries under this column should be sufficiently detailed to facilitate checking at a future date, if necessary. When the evidence is in the form of a certificate, the name and the address of the person signing the certificate should be entered here.

Note : Sl. No. in this register should correspond with the number in the registration certificate.

FORM VIII - PART II

[*See rule 11 (d)*]

Citizenship Act, 1955-Register of applications of minor children, who apply for registration under sec. 5 (1) (d), which have been rejected.

Sl. No.	Name	Father's name	Date of birth	Present address	Date of rejection	*Remarks (brief reasons why the application has been rejected)
1	2	3	4	5	6	7

* Entries under this column should be sufficiently detailed to facilitate checking at a future date, if necessary. Once an application is rejected, it should be possible to identify the person, if he again makes an application.

FORM IX

[*See rule 12 (a)*]

CITIZENSHIP ACT, 1955 -Register of alien women registered as Indian citizens.

Serial No.	Full name of applicant & address	Occupation	Place & date of birth.	Nationality	Matal state	Full name & address of husband.	Whether applicant has formally renounced or lost her former nationality (or given an undertaking in writing to renounce it if application is sanctioned. Ref. to documentary evidence furnished to be given.	Particulars as to date & place of taking of oath of allegiance & actual issue of certificate.	Ref. to letter from State Govt. forwarding details of application	Remarks

FORM X

[*See rule 12 (b)*]

Register of minors registered as Indian citizens under section 5 (4).

Sl. No.	Full name of minor & address	Place & date of birth	Full names & addresses of parents	Full name & address of guardian	Date of registration	Ref. to letter from State Govt. forwarding details of application.	Remarks

FORM XI

[*See rule 14*]

List of persons who have been registered as citizens of India under section 5 (1) (a) (d) of the Citizenship Act 1955, during the quarter ending on the 31st/30th day of March/September, June/December, 19

Sl. No.	Name	* Father's/Mother's or Husband's name	Age

* Enter s/o or d/o before father' or mother's name and w/o before husband's name.

Note : Each return should indicate clearly full particulars of the registering authority and place of registration.

This form when completed should be forwarded in triplicate to the Chief Secretary to the Government of the State in which the applicant is resident together with a fee of Rs. 15 (by Treasury chalan) payable on submission of an application.

FORM XII PART I

[*See rule 17 (1)*

CITIZENSHIP ACT, 1955—Section (1)

Application by a person for a certificate of naturalisation.

1. Full name of applicant in country of origin (in BLOCK LETTERS)....

   If now commonly known by another name, enter such name here....

   Private address....

   Occupation ....

   Business address....

   Place and date of birth....

   Nationality at birth....

   Present nationality (if different)....

   State if single, married, widower, widow or divorced....

2. Father's full name in country of origin (in BLOCK LETTERS)....
   Present address (if living)....

   Present nationality (if dead, give nationality at time of death)....

   Mother's full name in country of origin (in BLOCK LETTERS)....

   Present address (if living)....

   Present nationality (if dead give nationality at time of death)....

3. Whether the applicant is a subject or citizen of any country where an Indian citizen is prevented by law or practice of that country from becoming a subject or citizen of that country by naturalisation....

4. Pricipal languages of India known and extent of knowledge thereof with evidence....

5. Statement regarding residence :
   (a) I have resided in India or been in the service of a Government in India or partly the one and

partly the other, throughout the period of 12 months immediately preceding the date of this application.*.....

(b) During the seven years immediately preceding the said period of twelve months, I have either resided in India or been in the service of a Govt. in India or partly the one and partly the other, for periods amounting in the aggregate to not less than 4 years.....

Details of such residence &/or service.	From date	To date	Address and/or details of service under a Government in India	Year	Months

If this application is granted, my intention as to future residence, (and/or service under a Government in India) is as follows.....

6. Reasons for which applicant wishes to acquire Indian citizenship.....

7. Approximate date of any previous application for naturalisation.....

8. (a) I have renounced/lost the citizenship of my country in accordance with the law therein in force in that behalf.....

(Here list the documents attached to prove the fact of such renunciation/loss).....

Or

(b) I undertake that I will renounce the citizenship of my country in accordance with the law in force in that behalf in the event of my application being sanctioned.....

9. If original name has been altered, give particulars.....

Date of alteration.....

Give particulars of any other name (s) used for private purposes.....

Give particulars of any other name (s) used for trading or business purposes .....

10. If nationality has changed since birth give circumstances of change.....

If now of no nationality give circumstances in which the previous nationality was lost. .....

Give details with dates of foreign countries visited during periods of residence shown in item 5. .....

11. Give details of all proceedings of any kind (civil or criminal) taken against you in courts of law :

Nature	Date	Place	Result

12. Date of any composition made with creditors .....

Date of being adjudicated bankrupt.....

Date of discharge from bankruptcy.....

13. If married, give date and place of marriage ..... Date ..... Place .....

Nationality

Husband's or wife's full name before marriage.....
(in BLOCK LETTERS)

If husband or wife is dead, give date and place of death..... Date ..... Place .....

If marriage dissolved give date and place. ..... Date ..... Place .....

14. Give particulars of legitimate children :

Full name of each child	Date of birth	Place	Where now resident

15. If a woman who was an Indian citizen previous to her marriage, whether her husband has died or whether her marriage has been dissolved .....

16. Names and addresses of at least two persons whose certificates as to character of applicant have been attached to the application (i). .....

(ii).....

17. I, the undersigned, to whom the foregoing particulars relate, hereby apply to the Secretary to the Government of India in the Ministry of Home Affairs for the grant of a certificate of naturalisation by the Central Government.

Station..... Signature.....

Date.....

Affidavit to accompany the application for a certificate of naturalisation under the Citizenship Act, 1955

In the matter of the application.....under the Citizenship Act, 1955, I,..... .....son of.....residing at.....make oath and say/do solemnly and sincerely affirm.....that the statements contained in my application hereunto annexed are true to the best of my knowledge and belief.

If, at any time before a certificate is issued to me, the accuracy of any of the foregoing particulars is affected by an alteration in circumstances, I undertake to inform the Secretary to the Government of India in the Ministry of Home Affairs in writing forthwith.

Station ..... Signature .....

Date.....

This declaration must not be made before a person who is the solicitor or agent of the applicant.

Caution—Section 17 of the Citizenship Act, 1955, provides that "any person who, for the purpose of procuring anything to be done or not to be done under this Act, knowingly makes any representation which is false in imprisonment for a term which may extend to six months, or with fine, or with both."

Certificate of character

(Vide item 16)

I, the undersigned, hereby state that I am an Indian citizen otherwise than by naturalisation ; that I am a householder ; and that I am not the solicitor or agent of———whose application for naturalisation, I am prepared to support from personal knowledge of, and intimate acquaintance with, the applicant for———years. I can vouch for his/her good character and loyalty.

Signature.....

Date..... Name.....
(BLOCK LETTERS)

Full postal address.....

I, the undersigned, hereby state that I am an Indian citizen otherwise than by naturalisation ; that I am a householder ; and that I am not the solicitor or agent of.....whose application for naturalisation, I am prepared to support from personal knowledge of, and intimate acquaintance with, the applicant for.....years. I can vouch for his/her good character and loyalty.

Signature.....

Date..... Name.....
(BLOCK LETTERS)

Full postal address.....

Copies of two issues (in triplicate) of newspapers circulating in the district in which the applicant resides, each containing (clearly marked) an advertisement in the following form should accompany the application.

"Notice is hereby given that.....of.....is applying to the Secretary to the Government of India in the Ministry of Home Affairs for naturalisation, and that any person who knows any reason why naturalisation should not be granted should send a written signed statement of the facts to the said Secretary."

FORM XIII

[*See rule 18*]

CITIZENSHIP ACT, 1955

Certificate of naturalisation

Whereas A-B has applied for a certificate of naturalisation, alleging with respect to himself (hereself) the particulars set out below, and has satisfied the Government that the condition laid down in the above-mentioned Act for the grant of naturalisation are fulfilled in the said A-B's case.

Now, therefore, in pursuance of the powers conferred by the said Act, the Government hereby grants to the said A-B this certificate of naturalisation, and declares that, upon taking the oath of allegiance within the time and in the manner required by the rules made in that behalf he/she shall, subject to the provisions of the said Act, be entitled to all political and other rights, powers and privileges, and be subject to all obligations, duties and liabilities to which an Indian citizen is entitled or subject, and have to all intents and purposes the status of an Indian citizen.

In witness whereof I have hereto subscribed my name this day of.....

Signed.....
Secretary
Joint Secretary | .....
to the Government of India, Ministry of Home Affairs.

PARTICULARS

Full name.....
Address.....
Profession or occupation.....
Place and date of birth.....
Nationality.....
Single, married, etc.....
Name of wife or husband.....
Names and nationalities of parents.....

Oath of allegiance

I, A-B, do solemnly affirm (or swear) that I will bear true faith and allegiance to the Constitution of India as by law established, and that I will faithfully observe the laws of India and fulfil my duties as citizen of India.

Signature.....
Designation.....
Affirmed/Sworn and subscribed this day of.....19, before me.
* Signature.....
* Designation.....

* Signature and designation of the officer authorised under rule 28 of the Citizenship Rules, 1956, before whom the registration, declaration or oath of allegiance is made or taken.

FORM XIV

[*See rule 19(2)*]

CITIZENSHIP ACT, 1955

Register of certificates of naturalisation and oaths of allegiance

Serial No.	Full name & address	Profession or occupation	Place & date of birth	Previous nationality	Married, single, widower, widow, divorced	Full name of wife/husband	Full names of parents	Date of certificate as signed & sent to the State Govt.	Attestation by Secy./Jt. Secy. Ministry of Home Affairs	Particulars as to date & Place of taking of oath of allegiance & actual issue of Certificate.	References to letter from State Govt. forwarding details of application.	Remarks

This form when cojpleted should be forwarded in triplicate to the Chief Secretary to the Government of the State in which the applicant is resident.

FORM XV

CITIZENSHIP ACT, 1955-Section 8

Declaration of intention to resume Indian citizenship under section 8(2) of the Act made by a person who has ceased to be an Indian citizen on the loss of Indian citizenship by his father in acordance with the provisions of section 8(1) of the Act.

1. I, A-B, of (here insert address of declarant) was born at———on———

2. My father's full name is/was—

3. I ceased to be an Indian citizen, by virtue of subsection (1) of section 8 of the Citizenship Act, 1955, on———by reason of the fact that (here state the cause whereby the declarant's father and the declarant ceased to be Indian citizens, the year and date in which they ceased to be Indian citizens and all other relevant information).

4. If I had not so ceased to be an Indian citizen, I should now be an Indian citizen by reason of the fact that (here state the grounds on which the declarant claims that he or she would have been such a citizen).

5. I hereby declare my intention to resume Indian citizenship and apply to the Central Government to register this declaration.

I, A-B, do solemnly and sincerely declare that the foregoing particulars stated in this declaration are true, and I made this solemn declaration conscientiously believing the same to be true.

Signature.....

I, the undersigned, hereby state that I am an Indian citizen otherwise than by naturalisation ; that I am a householder and that I am not the solicitor or agent of———I vouch for the correctness of the statements made by———— in his application for——

Signature.....

Date.....

Name.....

(in BLOCK LETTERS)

Full postal address.....

Oath of allegiance

I, A-B, do solemnly affirm (or swear) that I will bear true faith and allegiance to the Constitution of India as by law established, and that I will faithfully observe the laws of India and fulfil my duties as a citizen of India.

Signature.....

Designation.....

Affirmed/Sworn and subscribed this.....day of.....19, before me.

* Signature.....

* Designation.....

PARTICULARS

Full name.....

Address.....

Profession or occupation.....

Place and date of birth.....

Nationality.....

Single, married, etc.....

Name of wife or husband.....

Names and nationalities of parents.....

Names and particulars of minor children, if any.....

FORM XVI

[*See rule 20(3)*]

CITIZENSHIP ACT, 1955

Register of declaration of resumptian of Indian citizenship.

Serial No.	Full name of declarant & address	Profession or occupation	Place & date of birth	Nationality of declarant's parents	Full names of parents	Married, Single, widower, widow or divorced	Place where & date when declaration made	Ref. to orders etc. from Ministry of Home Affairs	Attestation by Secy./Jt. Secy., Ministry of Home Affairs	Reference to letter along with which declaration or resumption re-ceived	Remarks

This form when completed should be forwarded in triplicate to the Chief Secretary to the Government of the State in which the applicant is resident.

* Signature and designation of the officer authorised under rule 28 of the Citizenship Rules, 1950 before whom the registration, declaration or oath of allegiance is made or taken.

FORM XVII

[*See rule 21(1)*]

CITIZENSHIP ACT, 1955—Section 8

Declaration of renunciation of citizenship under section 8 of the Act made by a citizen of India who is also a citizen or national of another country.

1. I, A-B, of (here insert address of declarant) am of full capacity and was born at.....on.....

2. I have/have not been married.

3. I am a citizen/national of.....under the law of that country.

4. I hereby renounce my citizenship of India.

I, A-B, do solemnly and sincerely declare that the foregoing particulars stated in this declaration are true, and I make this solemn declaration conscientiously believing the same to be be true.

Signature.....

Made and subscribed this.....day of.....19 , before me.

* Signature.....

* Designation.....

PARTICULARS

Full name.....

Address.....

Profession or occupation.....

Place and date of birth.....

(Second) Nationality.....

Single, married, etc.....

Name of wife or husband.....

Names and nationalities of parents.....

Names and full particulars of children, if any.....

I, the undersigned, hereby state that I am an Indian citizen othewise than by naturalisation ; that I am a householder ; and that I am not the solicitor or agent of.....I vouch for the correctness of the statements made by .....in his application.....for.....

Date..... Signature.....

Name.....
(in BLOCK LETTERS)

Full postal address.....

* Signature and designation of the officer authorised under rule 28 of the Citizenship Rules, 1956, before whom the registration, declaration or oath of allegiance is made or taken.

FORM XVIII

CITIZENSHIP ACT, 1955

Register of declaration of renunciation of Indian citizenship.

Serial No.	Full name of declarant & address	Profession or occupation	Place & date of birth	Nationality of declarant's parents	Full names of parents	Married, single, widower, widow or divorced	Place where and date when declaration made	Attestation by Secy./Jt. Secy., Ministry of Home Affairs	Ref. to orders etc. from Ministry of Home Affairs	Reference to letter along with which declaration or renunciation received.	Remarks

This form when completed should be forwarded in triplicate to the Chief Secretary to the Government of the State in which the applicant is resident.

FORM XIX

(See rule 16A)

CITIZENSHIP ACT, 1955—Section 5(i)(e)

1. I, A-B,.....(here insert address of the applicant showing district and name of the State) am of full age and capacity and was born at (with place and country).....on.....
2. My father's full name is/was.....and he was born at.....
3. I am single/married/widower/widow/divorced from my wife/husband .....
4. My wife's/husband's full name is/was.....
5. My age on the date of application is.....
6. Marks of identification.....
7. Date of first arrival in India.....
8. Particulars of residence in India with addresses.....

Address	From date	To date	Year	Months

9. I am a citizen of.....My passport/naturalisation certificate/registration certificate as a citizen of.....was issued at.....on.....day .....month.....year.

(Here write place and date of issue)

10. I am ordinarily resident in India and have been so resident for the two years immediately preceding the date of application.....
11. Profession or occupation.....
12. The name of the employer, if any.....

13. Passport particulars if any.....

(a) Number.....

(b) Place and date of issue.....

(c) Name of issuing authority.....

14. Description of immovable property and/or business interests in India/ abroad :

Place	Brief description of property/ business interests	At present in possession of

15. Details of family members who are staying with the applicant in India :

Sl. No.	Name	Present address	Relationship	Age

16. Details of members of family left in a country other than India :

Nature	Date	Place	Result

18. Names and addresses of two references in India to whom the applicant is well known.

(1).....(2).....

I, A-B,.....do solemnly and sincerely declare that the foregoing particulars stated in this application are true, and I make this solemn declaration conscientiously believing the same to be true.

Signature.....

Made and subscribed this.....day of.....19....., before me.

* Signature.....

* Designation.....

I, the undersigned, hereby state that I am an Indian citizen otherwise than by naturalisation ; that I am a householder ; and that I am not the solicitor or agent of.....I vouch for the correctness of the statements made by..... in the application for.....

Signature.....

Name.....
(in BLOCK LETTERS)

Full postal address.....

Oath of allegiance

I, A-B, do solemnly affirm (or swear) that I will bear true faith and allegiance to the Constitution of India as by law established, and that I will faithfully observe the laws of India and fulfil my duties as a citizen of India.

Signature.....

Affirm and subscribed this.....day of.....19....., before me.

* Signature.....

* Designation.....

FORM XX

[*See rule 16A(4)*]

CERTIFICATE OF REGISTRATION

No.....

This is to certify that the person whose particulars are given below has been registered as a citizen of India under the provisions of section 5(1)(e) of the Citizenship Act, 1955.

1. Name.....
2. Name of father/husband.....
3. Date of birth.....
4. Place of birth.....
5. Nationality.....
6. Occupation.....
7. Address.....
8. Special pecularities and identification marks.....

PHOTOGRPH

Signature and designation of issuing authority

Signature of grantee.....

Date and place of issue.....

FORM XXI

(See rule 16B)

CITIZENSHIP ACT, 1955

Register of person registered as Indian citizens under Section 5 (1) (e)

Sl. No.	Full name & address of applicant	Father's name	Place & date of birth	Nationality	Last permanant address outside India	Date from which resident in India	Date of registration	Reference to letter from State Govt. forwarding application	Remarks

SCHEDULE II

(See rule 25)

1. (1) When the Central Government refers the case of a citizen of India to a Committee of Inquiry under sub-section (3) of section 10 (which relates to deprivation of citizenship of India), the Committee of Inquiry (in this Schedule referred to as "the Committee") shall before holding the inquiry, cause notice to be given to the person to whom the inquiry relates, stating the time and

* Signature and designation of the officer authorised under rule 28 of the Citizenship Rules, 1956, before whom the registration, declaration or oath of allegiance is made or taken.

the place where it will be held and the nature thereof and informing him that he will be entitled to be present and/or to be represented by counsel or solictor, or if the Committee think fit, by some other person approved by them;

(2) A Notice under this rule may be given,

(a) in a case where the address of the person concerned is known, by causing the notice to be delivered to him personally or by sending it to him to the address by post ;

(b) in a case where that person's address is not known, by sending it to his last known address and in such manner, if any, as the Chairman of the Committee shall consider fit.

(3) A notice as aforesaid shall be given such time (not being less than 30 days) before the holding of the inquiry as the Chairman of the Committee shall consider reasonably necessary.

2. A notice under paragraph 1 may require the person concerned to answer it in writing and to furnish in writing to the Committee any information which they consider material, to be verified in such manner as they may require,

3. (1) The Committee shall have all the powers of a Civil court for the purpose of taking evidence on oath, enforcing the attendance of witnesses, issuing commissions for the examination of witnesses, and compelling the production of documents.

(2) The Committee shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXV of the Code of Criminal Procedure, 1898 (V of 1898).

4. The Committee may act upon any information which is available whether or not such information is given on oath or would be admissible as evidence in a court.

5. The Committee may invite any Government department or Ministry of the Government of India which appears to them to be interested to appoint a person to represent the department or Ministry at the inquiry.

6. (1) The Committee may act notwithstanding any vacancy in their number, and the quorum of the Committee shall be two.

(2) The Committee may delegate one or more of their members to inquire into any particular matter relating to the inquiry, and the member or members so delegated shall, for this purpose, have all the powers of the Committee under sub-paragraph (1) of paragraph 3.

7. The Committee may postpone or adjourn the inquiry from time to time.

8. The Committee may allow or refuse to allow the public or any portion thereof to be present during the whole or any part of the inquiry.

9. Subject to the foregoing paragraphs, the procedure at the inquiry shall be such as the Committee may determine.

SCHEDULE III

[*See rule 30 (2)*]

1. Where it appears to the Central Government that a citizen of India has voluntarily acquired the citizenship of any other country, it may require him to prove within such period as may be fixed by it in this behalf, that he has not voluntarily acquired the citizenship of that country , and the burden of proving that he has not so acquired such citizenship shall be on him.

2. For the purpose of determining any question relating to the acquisition by an Indian citizen of the citizenship of any other country, the Central Government may make such reference as it thinks fit in respect of that question or of any matter relating thereto, to its Embassy in that country or to the Government of that country and act on any report or information received in pursuance of such reference.

3. The fact that a citizen of India has obtained on any date a passport from the Government of any other country shall be conclusive proof of his having voluntarily acquired the citizenship of that country before that date.

4. In determining whether a citizen of India has or has not voluntarily acquired the citizenship of any other country, the Central Government may take the following cirumstances into consideration, namely—

(a) whether the person has migrated to that country with the intention of making it his permanent home ,

(b) whether he has in fact taken up permanent residence in that country ; and

(c) any other circumstances relevant o the purpose.

5. Notwithstanding anything contained in paragraph 4, a citizen of India shall be deemed to have voluntarily acquired the ciitzenship of Pakistan—

(a) if he has migrated to Pakistan with the intention of making it his permanent home ; or

(b) if he has obtained any certificate of domicile in Pakistan or declared himself to be a citizen of Pakistan or of Pakistan domicile ; or

(c) if he has applied for and obtained, a right, title or interest in evacuee property in Pakistan ; or

(d) if he has obtained a temporary permit for entry into India from Pakistan.

Explanation—For the purpose of clause (a) of this paragraph, a person shall not be deemed to have migrated to Pakistan with a view to making that country his permanent home—

(i) if he has left for a place in West Pakistan with a "no objection certificate" and has returned to India under such permit for permanent return or resettlement as may have been issued by or under the authority of any law in force in India or of the Government of India, or

(ii) if having left India at any time between the 1st February, 1950, and the 15th October, 1952, for a place in West Pakistan, he has returned to India with a repatriation certificate issued by or under the authority of any law in force in India or of the Government of India.

SCHEDULE IV

[*See rule 31 (1)*]

Table of fees

Matter in which fee is to be taken	Amount of fee Rupees
Registration as a citizen under section 5 of the Citizenship Act, 1955 of—	
(i) Alien woman—5 (1) (c)	50
(ii) Minor child 5 (1) (d)	10
(iii) Any other minor 5 (4)	50

Matter in which fee is to be taken	Amount of fee-Rupees
Grant of a certificate of naturalisation	100
Grant of a certificate of citizenship in case of doubt	25
Witnessing the signing of an application or declaration mentioned in Rule 18 of these rules Administering the oath of allegiance	8 12
Registration of a declaration of intention to resume Indian citizenship or of renunciation of citizenship	25
Supplying a certified true copy of any notice, certificate, order, declaration, or entry given, granted or made by or under the Citizenship Act, 1955	10
Supplying a certified true copy of a certificate of naturalisation	15

3. THE CITIZENS (REGISTRATION AT INDIAN CONSULATES) RULES, 1956*

Short title and commencement

1. (1) These rules may be called the Citizens (Registration at Indian Consulates) Rules, 1956.

(2) They shall come into force at once.

Definitions

2. In these rules, unless the context otherwise requires—

(a) "Act" means the Citizenship Act, 1955 ;

(b) "citizen" means a person who is by virtue of the Constitution or of the Act, a citizen of India ;

(c) "consular district" or "district of a consular officer" means, with reference to any person to whom rule 14 applies, the country in which by arrangement such person represent the interests of the Government of India ;

(d) "consular officer" includes—

(i) any Ambassador, Minister, Counsellor, Charge-de-Affaires, Secretary or Attache in any Indian diplomatic mission abroad ;

(ii) the High Commissioner, Deputy High Commissioner or Assistant High Commissioner for India in any Commonwealth country ;

(iii) a Commissioner, Agent or Assistant Commissioner for the Government of India in any colony or British possession abroad ;

(iv) a Consul-General, Consul, Vice-Consul, Consular Agent, or Pro-Consul ;

(v) a Political Officer or Secretary in Gangtok, Sikkim ;

(vi) any other person authorised under section 2 (a) of the Diplomatic and Consular Officers (oaths and Fees) Act, 1948 (41 of 1948), to perform the duties of Consul-General, Consul, Vice-Consul or Consular Agent, and

(vii) any person to whom rule 14 applies ;

(e) "domicile" has the same meaning as in the Indian Succession Act, 1925 (39 of 1925) ;

(f) "Form" means a Form set forth in the Schedule ;

* S.R.O. 1575, d. 7-7-56, Gaz. of India, Extraordinary, Part II, sec. 3, d. 7-7-56.

(g) "register" means the register of births, or, as the case may be, the register of deaths, kept under these Rules :

(h) "Registrar-General" means the Registrar-General of Births and Deaths of Indian citizens, New Delhi ;

(i) "year" means the calender year.

Registers to be kept

3. There shall be kept in every consular district—

(a) a register of births in Form "A" for registering the birth on or after the commencement of these Rules of citizens in a consular district and in cases falling under rule 14, of citizens born outside such district ;

(b) a register of births in Form "B" for registering the births before the commencement of these Rules of citizens in a consular district and of citizens born outside such district ; and

(c) a register of daths in Form "C" for registering the deaths of citizens in a consular district and in cases falling under rule 14, of citizens dying outside such district.

Officers concerned with the keeping of registers and issuing of certificates

4. (1) It shall be the duty of the consular officer for the time being in charge of a consular district to keep the registers of births and deaths for the district in accordance with these Rules and to issue duly certified copies of entries in the registeres, in accordance with these Rules.

(2) No entry shall be made in a register and no certified copy of an entry in such register shall be issued except by the consular officer in charge of the district or some other consular officer under his superintendence.

Copies of registers to be forwarded annually to Registrar General

5. (1) Before the first day of February in each year, every consular officer for the time being in charge of a consular district shall transmit direct to the Registrar-General, copies certified to be correct under his hand and seal, or under the hand and seal of some other consular officer under his superintendence, of all entries made during the previous year in the registers kept in his district. Such copies shall be prepared in Form D, E or F, as the case may be.

(2) If in any year, no birth or death has been registered in the register of births or deaths, the officer-in-charge of the district shall transmit to the Registrar-General in the manner aforesaid a certificate to that effect in Form G.

General instructions with respect to entries in registers

6. (1) All entries in a register shall be numbered consecutively and each entry shall relate to the birth or death of one person only.

(2) Each entry shall record as precisely as possible the particulars for the recording of which provision is made in the register, and directions contained in the notes appearing on the face of the register shall be followed.

(3) Where doubt exists as to the date of an event or the age of a person, the approximate date or age may be entered proceded by the word "about".

(4) In every case, the consular officer must satisfy himself fully that the national status of the person whose birth or death he is requested to register is such that the registration could properly be effected under these Rules.

Registration in cases where more than one living child is born at a birth

7. Where more than one living child is born at a birth, a separate entry in the register of births should be made in consecutive spaces in respect of each such child, and the time of birth to which the entry relates be recorded in hours and minutes, A. M. or P. M., as the case may be after the date of birth in column 2.

Registration in ordinary cases

8. Subject to the provisions of rules 9 and 10, where the birth or death of a citizen is reported, either orally or in writing, to a consular officer as having occured within his district at any time during the seven years immediately preceding, the officer shall register the birth or death if he is satisfied as to the nationality of the child or the deceased person and as to the other facts of the case.

Application by person outside district

9. Where an application for the registration of a birth occurring within the district of a consular officer is received by him from a person not resident within the district, the officer may, before registering the birth or death, require the applicant to furnish a declaration as to the facts of the case, of such other documentary evidence as may be sufficient to satisfy the officer of the accuracy of the statements made to him.

Production of local death certificate if procurable

10. (1) In a case where under the law of the country certificates of death are issued, a consular officer shall before registering a death, require such certificate of death to be produced before him, unless he is satisfied that it is not reasonably practicable to produce such a certificate ; and where such a certificate is produce, he shall enter the fact in column 8 of the register in Form C. Where such certificate cannot be produced, the consular officer shall state the reasons therefor in a marginal note against the entry.

(2) If certificates of death are not issued under the provisions of the local law, the consular officer shall record the fact in the register in a marginal note against the entry.

Registration of births made under section 4(1) (a) or validated under section 4(2)

11. (1) In any case where the Central Government has granted permission under section 4 (1) (a) of the Act, for the registration of a birth or has issued a direction under section 4 (2) of the Act that a birth shall be deemed to have been registered with its permission, the consular officer shall make a note against the relevant entry in one of the forms specified below which is appropriate to the case and shall also make a note of the number and date of the relevant communication from the Central Government :

"By permission of the Central Government granted under section [4 (1) (a)] of the Citizenship Act, 1955 (57 of 1955)".

"By direction of the Central Government given under section 4 (2) of the Citizenship Act, 1955 (57 of 1955) ".

(2) In every case referred to in sub-rule (1), the consular officer shall append his official designation and signature to the note and shall immediately transmit to the Registrar-General a certified copy of the annotated entry.

Registration after an interval of more than seven years

12. (1) Where an application is made to a consular officer to register a birth or death which occurred within his district more than seven years before the date of the application, the officer shall, if he is satisfied that the national status of the child or the deceased person is such that registration could properly be effected under these Rules, require the applicant to furnish a declaration as to the facts of the case, including the facts regarding the national status of the child or the deceased person, and shall, before registering the birth or the death, refer the declaration, together with a full report of the circumstances, to the Central Government.

(2) If the Central Government directs the registration of the birth or death to be effected, the same or any other consular officer of the district shall register it accordingly, and shall make a reference to the direction and the number and date of the relevant communication from the Central Government, against the entry conerned.

Registration of a birth or death occurring within no consular district.

13. (1) The birth or death of a person in any foreign country but not within a district assigned to any consular officer, may be registered in the relevant register in accordance with the following procedure.

(2) In the case of an application for the registration of a birth, the consular officer shall, if he is satisfied that the person's national status is such that the registration could properly be effected under these Rules, require the applicant to furnish a declaration establishing the facts, and shall, before registering the birth, refer the declaration together with a full report of the circumstances to the Central Government.

(3) In the case of an application for registration of a death, the consular shall, if he is satisfied that the person's national status was such that the registration could properly be effected under these rules, require the applicant to furnish a declaration establishing the facts, and shall, before registering the death, refer the declaration, together with a full report of the circumstances to the Central Government.

(4) The Central Government shall in every such case decide whether registration is justified, and, if it considers that the birth or death is one which should be registered, by which consular officer registration shall be effected. The consular officer directed to effect the registration shall register the birth or death accordingly, and shall insert in the entry, after the date of registration, a note to the following effect together with a reference to the number and date of the relevant communication from the Central Government : "Registered at.....by the direction of the Central Government."

(5) For the purpose of this rule, a birth or death occurring in a foreign ship or aircraft which is outside territorial waters or territorial air shall be deemed to be a birth or death in a foreign country but within no consular district.

Births and deaths occurring in countries in which the Government of India have no diplomatic or consular representative.

14. (1) Births and deaths of citizens of India, who are born or who die in any territory outside India in which the Government of India have, for the time being, no diplomatic or consular representatives, may be registered.

(a) by persons serving in the diplomatic, consular or other foreign service of any other country which by arrangement with the Government of India, has undertaken to represent that Government's interests in the former country, or

(b) with the Government of India in the Ministry of External Affairs, or

(c) in the foreign country concerned by any person authorised in that behalf by the Government of India.

(2) The registration referred to in sub-rule (1) shall be effected, as far as circumstances permit, in accorpance with these rules. All entries, corrections, and certified copies shall be signed by the officer, with a statement of his official rank.

Particulars in entry to be checked before signature.

15. A consular officer shall, before completing an entry in a register by his signature in the last column of the register, carefully read through the particulars recorded by him in the preceding columns and, if he discovers any omission or error, he shall rectify it by inserting the omitted parti-

culars or, as the case may be, by ruling through the incorrect particulars and inserting above them the correct particulars and shall authenticate any such alteration by adding his initials in the margin of the register.

Corrections of errors in completed entry

16. If omission, discrepancy between facts recorded in different columns or other error is discoverd in any entry which has been completed by the signature of the consular ofiicer, the same or any other consular officer of the district, if satisfied as to the incompleteness or incorrectness of the entry and as to the correctness of any amendment proposed to be made, may correct the entry in accordance with the following principles, namely—

(1) In the case of an omission, discrepancy or other error which appears to him to be accidental or of a clerical nature, the officer may enter the omitted particulars between the lines of the register or, as the case may be rule through the incorrect particulars and insert above them the correct particulars. He shall then insert in the margin of the register a note to the following effect-

"Column No.....corrected on the.....day of.....19..., by me (signature of officer), (rank of officer)".

(ii) If the officer is not satisfied that the omission discrepancy or error is accidental or of a clerical nature, and, in any case, if more than seven years have elapsed since the birth or death was registered, he shall require the original informant or some other person cognisant of the facts of the case, to make a declaration as to the facts of the case, any corrections which he thinks proper to make shall be effected by underlining (but not altering) any erroneous particulars, and inserting in the margin of the register a note to the following effect—

In entry No....., column No.....for '(the erroneous particulars)' read: '(correct particulars)' : or insert the words.....or, as the case may require corrected on the.....day of.....19..., by me (signature of officer), (rank of officer) on production of a declaration made by (name) (address)".

(iii) In all cases where an entry is corrected under this rule after a certified copy of the entries for the year in which the entry was made has been transmitted in accordance with rule 5 to the Registrar-General, a duly certified copy of the corrected entry (showing any omission, insertion, underlining, or marginal note or initials) shall be transmitted to him forthwith.

(iv) In all cases where an entry is corrected under this rule, unless the correction is made in the presence of the original informant, the consular officer shall take such steps as may be possible, before the correction is made, to give notice of the precise form of the correction to the original informant, or, in the case of a registration of birth, the person whose birth entry is being corrected, or, if that person is a minor, the parents or guardian of the minor, or in the case of a registration of death, the relatives or representatives of the deceased.

Re-Registration of birth with additional or substituted name

17. (1) If it is desired to make any addition to, or alteration in, the name or names entered in respect of any child in a register of births, the birth shall be re-registered upon the information of the original informant, or, if that informant is not available, upon the information of some person, other than the person whose birth entry is being amended, having knowledge of the facts or, if the person to whom the entry relates is a minor, upon the information of one of his parents or his guardian, and words "Re-registered at No....." shall be inserted in the margin opposite to the original entry. If more than seven years have elapsed since the date of the birth, the consular officer shall require the applicant to furnish a declaration as to the facts of the case and shall, before re-registering the birth, refer the declaration to the Government of India.

(2) In all cases where a birth is re-registered under this rule after a certified copy of the entries for the year in which the original entry was made has been transmitted in accordance with rule 5 to the Registrar-General, a further copy of that entry showing the marginal note and duly certified shall be transmitted to him forthwith.

Certified copies of entries in register

18. (1) A certified copy of an entry in a register shall be issued by the consular officer on request and on payment of the prescribed fee and shall be in Form H, I or J, as the case may be, and shall be, and shall be authenticated by the signature and seal of the officer who issues it.

(2) Every such copy shall be a complete copy all the particulars comprised in a single entry, and shall show any omission, insertion underlining or marginal note or initials.

Fees

19. The rates of fees to be charged for registration of births or deaths, for search and for issue of certified copies of entries shall be as follows—

	Rs.	a.	p.
(i) For registration of birth or death (except the death of a seaman)	3		
(ii) For registration of the death of a seaman	3	8	
(iii) For each sarch in the register of births or deaths kept at the Consulate	1	4	
(iv) For each certified copy of an entry in the register	3		
(v) For each certified copy of registration of Indian citizenship	11	12	

NOTE 1—The fee for searching registers under this rule does not apply to cases where application for a copy is made at the time of registration.

NOTE 2—No fee shall be charged for mere registration of a person as a citizen of India under section 5 (1) (b) of the Act.

Mode of collection

20. All fees shall be collected by means of consular stamps of special adhesive variety obtainable from the Government of India, Central Stamp Store, Nasik. These stamps should be affixed to the documents in respect of which the fee is charged, or when there is no document, to a receipt. The stamps should be affixed close to the officer's signature, but when this is impracticable, they may be affixed on the top left hand corner of the documents. Stamps should be cancelled at once by means of a metal or rubber date stamp made for the purpose.

Adopted children

21. Where any person whose birth has been registered in the register of births has been given in adoption, the consular officer in charge of the district in the register of which such person's birth has been entered, shall, on application by such person or by the person at whose instance the original entry was made, make a note against the relevant entry with the word "adopted" in the margin and append his official description and signature, thereto. The censular officer may, whenever he considers necessary, require the applicant to produce documentary evidence or, in the absence thereof, two reliable witnesses to show that the person has in fact been given in adoption.

Power to waive conditions.

22. (1) In any case in which the Central Government is satisfied that the conditions and requirments of these rules cannot be reasonably complied with and that the birth of death is one which should be registered in a register of birth or deaths, or the amendment or correction of the entry is one that should be made, the Central Government may, subject to such conditions as it may think fit to impose, authorise the registrstion, amendment or correction.

(2) In particular and without prejudice to the generality of the foregoing power, the Central Government may, in its discretion, waive the requirement of a declaration in particular case.

Registration under section 5(1)(b) of the Act

23. (1) For every consular district there shall be kept a consular register in Form of persons registered as citizens of India under section 5 (1) (b) of the Act.

(2) An application or registration as a citizen of India under section 5 (1) (b) of the Act shall be in Form "L" and shall be made to the consular officer of the district where the applicant is ordinarily resident.

(3) Every application shall be signed before, and the oath of allegiance administered by the consular officer to whom application is made or any other consular officer.

(4) The consular officer shall make such preliminary enquiries as he may consider necessary before registering a person, and shall satisfy himself that the allegiance of any such person io India its genuine.

(5) When an application is received from a person not resident within the district, the consular officer may, before registering, require the applicant to furnish a declaration as to the facts of the case, or such other documentary evidence as may be sufficient to satisfy the officer of the accuracy of the statements made to him, including the fact that the officer to whom the application has been made is the nearest authority to whom the person could have reasonably applied.

(6) Entries in the register shall be numbered consecutively and each entry shall relate to one person only.

(7) Every person who is registered under this rule shall be granted a certificate in Form "M".

(8) The certificate of registration should be signed by the Head of the diplomatic or consular office or by such other officer above the rank of a Registrar who has been authorised by the Head of the Mission or Consulate. It should, on no account, be printed or rubber-stamped.

The certificate should be marked serially and a strict check kept on its issue.

(9) Every entry in the register should be authenticated, after the issue of the certificate, or rejection of the application, by an officer of or above the rank of a superintendent or a Registrar. An in each case where an application is rejected, the relevant papers should be carefully preserved for future reference. The register and all papers connected with an application should be preserved for permanent record.

(10) When an application for registration is refused, the applicant may merely be informed that the registering authority is not satisfied that he is suitable for registration. Representation received against such refusal should be submitted to the Central Government with a full statement of the reasons for refusal.

(11) Before the last day of April, July, October and January of each year, every consular officer for the time being in official charge of a consular district shall transmit direct to the Ministry of External Affairs, New Delhi, copy certified to be correct, under his hand and seal, or under the hand and seal of some other consular officer under his superintendence, of all entries made during the previous quarter in the register referred to in sub-rule (1), in Form N.

———

FORM A

Form of register of births of Indian citizens

BIRTHS within the district of the Indian.....at.....

[*See rule 3 (a)*]

Sl. No.	When & where born (a)	Name in full (b)	Sex (c)	Name in full of father (d)	Name & maiden surname of mother (e)	Rank, profession or occupation of father & claim to citizenship of India (f)	Signature, description & residence of information (g)	When registered. (h)	Signature of consular officer (i)
1	2	3	4	5	6	7	8	9	10

(a) Date and month in words, year in figures, place of birth as precisely as can be ascertained.

(b) Full names or forenames of child.

(c) "Boy" or "Girl" as the case may be.

(d) Names or forenames in full followed by surname ; surname to be written in Block letters.

(e) Names or forenames in full an married surname followed by the word "formerly" and the maiden surname. If the mother has been twice married, insert after the married surname the word "late" followed by the former married surname, then the word "formerly" followed by the maiden surname.

(f) To be inserted as fully as possible, followed by full particulers of his claim to citizenship of India.

(g) The person giving information shall be requested to insert his (her) ordinary signature at the top of the space in this column ; the consular officer shall then add the relationship (if any) of the informant to the child, and the full postal address of the informant. If the birth is registered on other than personal information, the nature of the information shall be recorded, e.g.—

"Letter from father dated....."

"Declaration from father dated....."

"Certificate from Civil Registrar dated....."

(h) Date and month in words, year in figures.

(i) Ordinary signature of consular officer, followed by his rank.

FORM B

Form of register of births of Indian citizens born before the commencement of the Rules

BIRTHS within the district of the Indian.....at.....

[*See rule 3 (b)*]

Sl. No.	When & where born (a)	Name in full (b)	Sex (c)	Name in full of father (d)	Name & maiden surname of mother (e)	Rank, profession or occupation of father & claim to Indian citizenship (f)	Signature, description & residence of informant (g)	When registered (h)	Signature of consular officer (i)
1	2	3	4	5	6	7	8	9	10

(a) Date and month in words, year in figures, place of birth as precisely as can be ascertained.

(b) Full names or forenames of child.

(c) "Boy" or "Girl" as the case may be.

(d) Names or forenames in full and followed by surname ; surname to be written in Block letters.

(e) Names or forenames in full and married surname followed by the word "formerly" and the maiden surname. If the mother has been twice married, insert after the married surname the word "late" followed by the former married surname, then the word "formerly" followed by the maiden surname.

(f) To be inserted as fully as possible, followed by particulars of his claim to Indian citizenship.

(g) The person giving information shall be requested to insert his (her) ordinary signature at the top of the space in this column ; the consular officer shall then add the relationship (if any) of the informant to the child and the full postal address of the informant. If the birth is registered on other than personal information, the nature of the information shall be recorded, e.g—

"Letter from father dated....."

"Declaration from father dated....."

"Certificate from Civil Registrar dated....."

(h) Date and month in words, year in figures.

(i) Ordinary signature of consular officer, followed by his rank.

FORM C

Form of register of deaths of Indian citizens

DEATHS within the district of the Indian.....at.....

[*See rule 3 (c)*]

Sl. No.	When & where died (a)	Name & surname (b)	Sex (c)	Age (d)	Rank, profession or occupation & claim to citizenship of India (e)	Residance at the time of death (f)	Signature, description & residence of informant (g)	When registered (h)	Signature of consular officer (i)
1	2	3	4	5	6	7	8	9	10

(a) Date and month in words, year in figures ; place of death as precisely as can be ascertained.

(b) Names or forenames in full, followed by surname to be written in Block letters,

(c) "Male" or "female."

(d) To be recorded in complete years, months and days.

(e) To be recorded as fully as possible. Full particulars of the deceased's claim to Indian citizenship shall also be inserted in this column. Women and children—In the case of a married woman or widow, particulars of her claim to citizenship of India should be given, followed by the words "born at... wife of (or widow) of (name of husband).....(husband's nationality).....

In the case of an unmarried woman, there shall be inserted (i) the word "Spinster" followed by her rank and occupation or profession (if any) and by the particulars of her claim to citizenship of India, and (ii) the words "daughter of" followed by the name, rank, occupation or profession and particulars of nationality of her father (so far as not already stated). If the deceased woman was possed of property, she may be described as "spinster of independent means", "spinster, land or house owner", "spinster, annuitant etc.

In the case of children under the age of 18 years, the words "son of" or "daughter of" shall be entered, followed by the name, rank profession and particulars of nationality of the father.

(f) The full address of the place of deceased's usual residence at the time of the death shall be stated. If the deceaed was normally resident in India at any time after the 26th January, 1950, the last known residence in India should also be stated, If this is not readily ascertainable the words "Resident in India prior to...(approximate date of departure from India, if known)" should be inserted after the place of residence at the time of death.

(g) Whenever practicable the deaths shall be registered on the personal information of someone cognisant of the facts (preferably the nearest relative) who shall sign his or her name at the top of the space in column 7. The description (i. e, relationship (if any) between the informant and the person registered) and address of the informant shall then be added by the consular officer. It is, however, permissible in cases where personal attendance is impracticable for the consular officer to register a death on written application and to record in this column the authority upon which the entry is made, e.g. letter from.....date....., "Letter from District Medical Officer at..... date....."

(h) Date and month in words, year in figures.

(i) The ordinary signature of the consular officer, followed by his rank.

FORM D

Annual returns to Registrar General of births of Indian citizens

BIRTHS within the district of the Indian.....at.....on or after the commencement of the Rules

[*See rule 5 (1)*]

Sl. No.	When & where born	Name	Sex	Name & surname of father	Name & maiden surname of mother	Rank, profession or occupation of father and claim of Indian citizenship	Signature, description & residence of informant	When registered	Signature of consular officer
1	2	3	4	5	6	7	8	9	10

I,..., Indian,...at..., do hereby certify that this is a true copy of the entries of births of Indian citizens registered in my office, from the entry of the birth of ....., No ....., to the entry of the birth of..., No.....

Witness my hand and seal, this.....day of.....19....

FORM E

Annual returns to Registrar General of births of Indian citizens before the oommencement of the Rules

BIRTHS within the district of the Indian.....at.....

[*See rnle 5 (1)*]

Sl. No.	When & where born	Name	Sex	Name & surname of father	Name & maiden surname of mother	Rank, profession or occupation of father and claim to Indian citizenship	Signature, description & residence of informant	When registered	Signature of consular officer
1	2	3	4	5	6	7	8	9	10

I,....., Indian,.....at....., do hereby certify that this is a true copy of the entries of births of Indian nationals registered in my office, from the entry of the birth of....., No....., to the entry of the birth of....., No.,.....

Witness my hand and seal, this.....day of.....19....

FORM F

Annual returns to Registrar General of deaths of Indian citizens

DEATHS within the district of the Indian...at...

[*See rule 5 (1)*]

Sl. No.	When & where died	Name & surname	Sex	Age	Rank, profession or occupation and claim to citizenship of India	Residence at the time of death	Signature, description & residence of informant	When registered	Signature of consular officer
1	2	3	4	5	6	7	8	9	10

I,..., Indian...at..., do hereby certify that this is a true copy of the entries of deaths of Indian citizens registered in my office, from the entry of the death of... ...No....., to the entry of the death of.....No.....

Witness my hand and seal, this.....day of.....19....

FORM G

Return of no birth or death having been registered during the year ending on the 31st December

[*See rule 5 (2)*]

Consul's district of.....

I,....., Consul, residing at.....do hereby certify that during the year from the 1st January,....., to the 31st December,.....no entry has been made in this register book kept by me of BIRTHS/DEATHS of Indian Citizens/Indian Nationals born before the commencement of the Rules.*

Witness my hand and seal, this.....day of.....19...,

FORM H

Certificate of entry of a birth of an Indian citizen

BIRTH within the district of the Indian.....at.....

[*See rule (18) 1*]

Sl. No.	When & where born	Name	Sex	Name & surname of father	Name & maiden surname of mother	Rank, profession or occupation of father and claim to Indian citizenship	Signature, description and residence of informant	When registered	Signature of consular officer
1	2	3	4	5	6	7	8	9	10

I,....., Indian.....at....., do hereby certify that this is a true copy of the entry of birth of.....No....., in the register of births kept at this Consulate.

Witness may hand and seal, this.....day of.....19....

FORM I

Certificate of entry of a birth of an Indian national born before the commencement of the Rules

BIRTHS Within the district of the Indian.....at.....

[*See rule 18 (1)*]

Sl. Nn.	When & where born	Name	Sex	Name & surname of father	Name & maiden surname of mother	Rank, profession or occupation of father and claim to Indian nationality	Signature, description and residance of informant	When registered	Signature of consular officer
1	2	3	4	5	6	7	8	9	10

I,....., Indian.....at....., do hereby certify that this is a true copy of the entry of the birth of....., No....., in the register of births kept at this Consulate.

Witness my hand and seal, this.....day of.....19....

FORM J

Certificate of entry of a death of an Indian citizen

DEATHS within the district of the Indian.....at.....

[*See rule 18 (1)*]

Sl. No.	When & where died	Name & surname	Sex	Age	Rank, profession or occupation and claim to Indian citizenship	Residence at she time of death	Signature description and residence of informant	When registered	Signature of consular officer
1	2	3	4	5	6	7	8	9	10

I,....., Indian....., at....., do hereby certify that this is a true copy of the entry of the death of No....., in the register of deaths kept at this Consulate.

Witness my hand and seal, this.....day of.....19....

*Strike out the words not required. A separate return should be transmitted in respect of of each register book in which no entry has been made,

FORM K

Place.....Country.....Registering Authority.....

Sl. No.	Name	Father's name/ Husband's name	Date of birth	Present address	Date of registration or rejection of applicaiton	Remarks* (nature of evidenc produced regarding eligibility for registration)
1	2	3	4	5	6	7

FORM L

Application for registration as a citizen of Indian under section 5 (1) (b) of the Act

[*See rule 23 (2)*]

To

The.....

(Designation of Diplomatic or Consular Representative)

(Name of place)

(Name of country)

Sir,

I request that I [and my minor children whose details are given below] may be registered as citizen (s) of India under the provisions of section 5 (1) (b) of the Citizenship Act, 1955.

2. I hereby declare that all the particulars given below are true to the best of my knowledge and belief.

Particulars

1. Name of applicant in full.....
2. Name of father or husband.....
3. Name (s) of and age (s) of minor children.....
4. Present address.....
5. Date of birth or approximate age.....
6. Place of birth of applicant.....

   [with details of Tehsil, District, State (Province) and country]
7. If applicant was not born in undivided India, state whether either of his parents or any of his grant-parents was born in undivided India.....
8. Name of the country in which applicant is ordinarily residing.....
9. (a) Is applicant domiciled in the country mentioned against No. 8 above ?

   (b) If not, in which country is he domiciled ?.....
10. Has applicant voluntarily acquired the citizenship of any country other than India ?

* Entries under this column should be sufficiently detailed to facilitate checking at a future date, if necessary. When the evidence is in the form of a certificate, the name and address of the person signing the certificate should be entered here.

11. I have/have not previously renounced or been deprived of the citizenship of India.

[If the applicant has renounced his or her Indian citizenship, state the date on which the declaration of renunciation was made, and if he or she has been deprived of his or her Indian citizenship, state the date on which and the authority by which the order of deprivation was made.]

Signed A-B.....

Made and subscribed this.....day of.....19..., before me.

Signed XY.*.....

Oath of allegiance

I, A-B, do solemnly affirm (or swear) that I will bear true faith and allegiance to the Constitution of India as by law established, and that I will faithfully observe the laws of India and fulfil my duties as a citizen of India.

Signed A-B.....

Affirmed/Sworn and subscribed this.....day of...19..., before me.

Signed X Y. *

FORM M

Certificate of registrarion

[*See rule 23 (7)*]

No.....

Name of Embassy/Consulate.....

This is to certify that the person whose particulars are given below has been registered by me as a citizen of India the provision of section 5 (1) (d) of the Citizenship Act, 1955.

1. Name.....
2. Name of father or husband.....
3. Place of birth.....
4. Age.....
5. Present address.....

Designation of Diplomatic or

[Seal] Consular representative

FORM N

[*See rule 23 (11)*]

Name of Embassy/Consulate.....

List of persons who have been registered as citizens of India under section 5 (1) (b) of the Citizenship Act, 1955, during the qurter ending on the 31st/30th day of $\frac{\text{March/September}}{\text{June/December}}$ 19 .

Serial No.	Name	*Father's or husband's name	Age

* Name and designation of the officer authorised under rule 28 of the cisizenship Rules, 1956, before whom the registration, declaration or oath of allegiance is made of taken. See also rule 28(8) of the Citizens (Registration at Indian Consulates) Rules, 1956.

* Enter son of or daughter of before father's name and wife of before husband's name.

II. ARTICLES 17: 35 (a) (iii)

THE UNTOUCHABILITY (OFFENCES) ACT, 1955.
Act No. 22 of 1955.

An Act to prescribe punishment for the practice of "Untouchability", for the enforcement of any disability arising therefrom and for matters connected therewith [8th may, 1955.

Be it enacted by Parliament in the Sixth Year of the Republic of India as follows :—

Short title, extent and commencement

1. (*1*) This Act may be called the Untouchability (Offences) Act, 1955.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date[1] as the Central Government may, by notification in the Official Gazette, appoint.

Definition.

2. In this Act, unless the context otherwise requires,—

(*a*) 'hotel' includes a refreshment' room a boarding house, a lodging house, a coffee house and a cafe ;

(*b*) 'place' includes a house, a building, a tent, and a vessel ;

(*c*) 'place of public entertainment' includes any place to which the public are admitted and in which an entertainment is provided or held.

Explanation.—'Entertainment' includes any exhibition, performance, game, sport and any other form of amusement ;

(*d*) 'place of public worship' means a place, by whatever name known, which is used as a place of public religious worship or which is dedicated generally to, or is used generally by, persons professing any religion or belonging to any religious denomination or any section thereof for the performance of any religious service, or for offering prayers therein ; and includes all lands and subsidiary shrines appurtenant or attached to any such place ;

(*e*) 'shop' means any premises where goods are sold either wholesale or by retail or both wholesale and by retail and Includes a laundry a hair cutting saloon and any other place where sevices are rendered to customers.

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1. 1st June, 1955, *vide* Notification No. S.R.O. 1109, dt. 28-5-55, Gezette of India, Extraordinary, 1955 Pt. II, Section 8, p. 971.

2. The right of entry into the place of public worship would not, however, include right to enter into the place where the idol is seated at *any hour* of the day. If the caste Hindus are not entitled to visit such place during particular hours, e.g., when food is offered to the Deity or the Deity retires, an 'untouchable' cannot claim to do so, for his right under s. 8 (*a*) is only the same as that of any other member of the same religion or religious denomination [*Baji Mahaptra* v. *Dominion of India*, A.I.R. 1951 Orissa 146 · cf. *Commr. H. R E* v. *Lakshmindra*, (1952-54) 2 C.C. 191].

3. Under the corresponding provision of the Bombay Harijan Temple Entry Act, 1947, it was held that the Act did not obliterate the distinction between Hindus and Jains, so that neither a caste Hindu nor a Hindu Harijan could claim a right of entry into a Jain temple [*Bhaichand* v. *State of Bombay*, A. 1952 Bom. 288].

But the Explanation to s. 8 of the present Act is differently worded than, the definition of Hindu in the Bombay Act. A Sikh or Jain is '*deemed* to be a Hindu' for the purposes of this Act. In the result, a Hindu and a Jain shall be deemed to be persons professing the *same* religion for the purposes of s. 8 (*a*) and, accordingly, a Scheduled Caste belonging to the Hindu community cannot be denied entry into a Jain temple.

Punishment for enforcing religious disabilities.

3. Whoever on the ground of "untouchability" prevents any person—

(*a*) from entering[2] any place of public worship which is open to other persons professing the same religion[3] or belonging to the same religious denomination or any section thereof. as such person ; or

(*b*) from worshipping or offering prayers or performing any religious service in any place of public worship, or bathing in, or using the waters of any sacred tank, well, spring or water-course, in the same manner and to the same extent as is permissible to other persons professing the same religious, denomination or any section thereof, as such person ;

shall be punishable with imprisonment which may extend to six months. or with fine which may extend to five hundred rupees, or with both.

Explanation.—For the purposes of this section and section 4 persons professing the Buddhist, Sikh or Jaina religion or persons professing the Hindu religion in any of its forms or developments including Virashaivas, Lingayats, Adivasis, followers of Brahmo, Prarthana, Arya Samaj and the Swaminarayan Sampraday shall be deemed to be Hindus.

Punishment for enforcing social disabilities.

4. Whoever on the ground of "untouchability" enforces against any person any disability with regard to—

(*i*) access to any shop, public restaurant, hotel or place of public entertainment ; or

(*ii*) the use of any utensils, and other articles kept in any public restaurant, hotel, *dharmshala, sarai or musafirkhana* for the use of the general public or of persons professing the same religion, or belonging to the same religious denomination or any section thereof, as such person ; or

(*iii*) the practice of any profession or the carrying on of any occupation, trade or business ; or

(*iv*) the use of, or access to, any river, spring, well, tank, cistern, water-tap or other watering place, or any bathing ghat, burial or cremation ground, any sanitary convenience, any road. or passage, or any other place of public resort which other members of the public, or persons professing the same religion or belonging to the same religious denomination or any section thereof, as such person, have a right to use or have access to ; or

(*v*) the use of, or access to, any place used for a charitable or a public purpose maintained wholly or partly out of State funds or dedicated to the use of general public, or persons professing the sme religion, or belonging to the same religious denomination or any section thereof, as such person : or

(*vi*) the enjoyment of any benefit under a charitable trust created for the benefit of the general public or of persons professing the same religion or belonging to the same religious denomination or any section thereof, as such person ; or

(*vii*) the use of, or access to, any public conveyance ; or

(*viii*) the construction, acquisition, or occupation of any residential premises in any locality, whatsover : or

(*ix*) the use of any *dharmashala, sarai* or *musafirkhana* which is open to the general public, or to persons professing the same religion or belonging to the same religious denomination or any section thereof, as such person : or

(*x*) the observance of any social or religious custom, usage or ceremony or taking part in any religious procession ; or

(*xi*) the use of jewellery and finery ;

shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Punishment for refusing to admit persons to hospital etc.—

5. Whoever on the ground of "untouchability"—

(*a*) refuses admission to any person to any hospital, dispensary, educational institution or any hostel attached thereto, if such hospital, dispensary, educational institution or hostel is established or maintained for the benefit of the general public or any section thereof ; or

(*b*) does any act which discriminates against any such person after admission to any of the aforesaid institutions ;

shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Punishment for refusing to sell goods or render services.—

6. Whoever on the ground of "untouchability" rufuses to sell any goods or refuses to render any service to any person at the same time and place and on the same terms and conditions at or on which such goods are sold or services are rendered to other persons in the ordinary course of business shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Punishment for other offences arising out of "untouchability."—

7. (*1*) Whoever—

(*a*) prevents any person from exercising any right accruing to him by reason of the abolition of "untouchability" under Article 17 of the Constitution ; or

(*b*) molests, injures, annoys, obstructs or causes or attempts to cause obstruction to any person in the exercise of any such right or molests, injures, annoys or boycotts any person by reason of his having exercised any such right : or

(*c*) by words, either spoken or written, or by signs or by visible representations or otherwise, incites or encourages any person or class of persons or the public generally to practise "untouchability" in any form whatsoever ;

shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Explanation.—A person shall be deemed to boycott another person who—

(*a*) refuses to let to such other person or refuses to permit such other person, to use or occupy any house or land or refuses to deal with, work for, hire for, or do business with, such other person or to render to him or receive from him any customary service, or refuses to do any of the said things on the terms on which such thing would be commonly done in the ordinary course of business ; or

(*b*) abstains from such social, professional or business relations as he would ordinarily maintain with such other person.

(*2*) Whoever—

(*i*) denies to any person belonging to his community or any section thereof any right or privilege to which such person would be entitled as a member of such community or section, or

(*ii*) takes any part in the ex-communication of such person, on the ground that such person has refused to practise "untouchability" or that such person has done any act in furtherance of the objects of this Act, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both,

Cancellation or suspensnsion of licences in certain cases.

8. When a person who is convicted of an offence under section 6 holds any licence under any law for the time being in force of any profession, trade, calling or employment in relation to which the offence is committed, the court trying the offence may, without prejudice to any other penalty to which such person may be liable under that section, direct that the licence shall stand cancelled or be suspended for such period as the court may deem fit, and every order of the court so cancelling or suspending a licence shall have effect as if it had been passed by the authority competent to cancel or suspend the licence under any such law

Explanation.—In this section, 'licence' includes a permit or a permission.

Resumption or suspension of grants made by Government.

9. Where the manager or trustee of a place of public worship which is in receipt of a grant of land or money from the Government is convicted of an offence under this Act and such conviction is not reversed or quashed in any appeal or revision, the Government may, if in its opinion the circumstances of the case warrant a course, direct the suspension or resumption of the whole or any part of such grant.

Abetment of offence.

10. Whoever abets any offence under this Act shall be punishable with the punishment provided of the punishment provided for the offence.

Enhanced penalty on subsequent conviction.

11. Whoever having already been convicted of an offence under this Act or of an abetment of such offence is again convicted of any such offence or abetment, shall on every such subsequent conviction, be punishable with both imprisnment and fine.

Presumption by courts in certain cases.

12 Where any act constituting an offence under this Act is commited in relation to a member of a Scheduled Caste as defined in clause (24) of Article 366 of the Constitution, the court shall presume, unless the contrary is proved, that such act was committed on the ground of "untouchability".

Limitation of jurisdiction of civil courts.

13. (*1*) No civil court shall entertain or continue any suit or proceeding or shall pass any decree or order or execute wholly or partially any decree or order if the claim involved in such suit or proceeding or if the passing of such decree or order or if such execution would in any way be contrary to the provisions of this Act.

(*2*) No court shall, in adjudicating any matter or executing any decree or order, recognise any custom or usage imposing any disability on any person the ground of "untouchability".

Offences by companies.

14. (1) If the person committing an offence under this Act is a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company, for the conduct of the business of the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1). where an offence under this Act has been committed with the consent of any director or manager, secretary or other officer of the company, such director, manager, secretary or

other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation—For the purposes of this section.

(*a*) 'company' means any body corporate and includes a firm or other association of individuals ; and

(*b*) 'director' in relation to a firm means a partner in the firm.

Offences under the Act to be cognizable and compoundable.

15. Notwithstanding anything contained in the Code of Criminal Procedure, 1898—

(*a*) every offence under this Act shall be cognizable ; and

(*b*) every such offence may, with the premission of the court be compounded.

Act to override other laws.

16. Save as otherwise expressly provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or any custom or usage or any instrument having effect by virtue of any such law or any decree or order of any court or other authority

Repeal.

17. The enactments specified in the Schedule are hereby repealed to the extent to which they or any of the provisions contained therein correspond or are repugnant to this Act or to any of the provisions contained therein.

THE SCHEDULE

(*See* section 17)

1. The Bihar Harijan (Removal of Civil Disabilities) Act, 1949 (Bihar Act 19 of 1949).
2. The Bombay Harijan (Removal of Social Disabilities) Act, 1946 [Bombay Act 10 of 1947].
3. The Bombay Harijan Temple Entry Act, 1947 (Bombay Act 35 of 1947).
4. The Central Provinces and Berar Scheduled Castes (Removal of Civil Disabilities) Act, 1947 (Central Provinces and Beara Act 24 of 1947).
5. The Central Provinces and Berar Temple Entry Authorisation Act, 1947 (Central Provinces and Berar Act 41 of 1947).
6. The East Punjab (Removal of Religious and Social Disabilities) Act, 1948 (East Punjab Act 14 of 1948).
7. The Madras Removal of Civil Disabilities Act, 1938 (Madras Act 21 of 1938).
8. The Orissa Removal of Civil Disabilities Act, 1946 (Orissa Act 11 of 1946).
9. The Orissa Temple Entry Authorisation Act, 1948 (Orissa Act 11 of 1948).
10. The United Province Removal of Social Disabilities Act, 1947 (U.P. Act 14 of 1947).
11. The West Bengal Hindu Social Disabilities Removal Act, 1948 (West Bengal Act 37 of 1948).
12. The Hyderabad Harijan Temple Entry Regulation, 1358F (No. 55 of 1358 Fasli).

13. The Hyderabad Harijan (Removal of Social Disabilities) Regulation, 1358F (No. 56 of 1358 Fasli).

14. The Madhya Bharat Harijan Ayogta Nivaran Vidhan, Samvat 2005 (Madhya Bharat Act No. 15 of 1949).

15. The Removal of Civil Disabilities Act, 1943 (Mysore Act 42 of 1943).

16. The Mysore Temple Entry Authorisation Act, 1948 (Mysore Act 14 of 1948).

17. The Saurashtra Harijan (Removal of Social Disabilities) Ordinance (No. XL of 1948).

18. The Travancore-Cochin Removal of Social Disabilities Act, 1125 (Travoncore-Cochin Act 8 of 1125).

19. The Travancore-Cochin Temple Entry (Removal of Disabilities) Act, 1950 (Travancore-Cochin Act 27 of 1950).

20. The Coorg Scheduled Castes (Removal of Civil and Social Disabilities) Act, 1949 (Coorg Act I of 1949).

21. The Coorg Temple Entry Authorisation Act, 1949 (Coorg Act 2 of 1949).

III. ARTICLE 22(7).

PREVENTIVE DETENTION ACT, 1950
(IV OF 1950)

An Act to provide for preventive detention in certain cases and matters connected therewith.

Be it enacted by Parliament as follows :—

Short title, extent and duration.

1. (1) This Act may be called the Preventive Detention Act, 1950.

(2) It extends to the whole of India.

Provided that it shall not apply to the State of Jammu and Kashmir except to the extent to which the provisions of this Act relate to preventive detention or reasons connected with defence, foreign affairs or the security of India.

(3) It shall cease to have effect on the *31st day of December, 1966*[1] save as respects things done or omitted to be done before that date.

Definition.

2. In this Act, unless the context otherwise requires,—

(*a*) "State Government" means in relation to a Union Territory, the Chief Commissioner of the State ;

(*b*) "detention order" means an order made under section 3 ; and

(*c*) "*appropriate Government*" *means, as respects a detention order made by the Central Government or a person detained under such order, the Central Government or by an officer subordinate to a State Government or as respects a person detained under such order, the State Government.*

1. Substituted for '1968', by Act 51 of 1968.

Power to make orders detaining certain persons.

3. (1) The Central Government or the State Government[2] may—

(*a*) If satisfied[3] with respect to any person that with a view to preventing him from acting in any manner prejudicial to—

(*i*) the defence of India, the relation of India with foreign powers[4] or the security of India, or

(*ii*) the security of the State or the maintenance of public order,[5] or

(*iii*) the maintenance or supplies and[6] a services essential to the community,[7] or

(*b*) if satisfied with respect to any person who is a foreigner within the meaning of the Foreigners' Act 1946 (XXXI of 1946), that with a view to regulating his continued presence in India or with a view to making arrangements for his expulsion from India,[8] it is necessary so to do, make an order directing that such persons be detained.[9]

(2) Any of the following officers. namely,—

(*a*) District Magistrates,

(*b*) Additional District Magistrates specially empowered in this behalf by the State Government,

(*c*) *the Commissioner of Police for Bombay, Calcutta, Madras or Hyderabad,*

(*d*) *Collector in the State of Hyderabad,*

may if satisfied as provided in sub-clauses (2) and (3) of clause (*a*) of sub-section (1) exercise powers conferred by the said sub-section.

(*3*) *When any order is made under this section by an officer mentioned in sub-*

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2. Leaving the determination of the necessity for detention to the subjective satisfaction of the Executive is not delegation of legislative power. This is necessary owing to the very nature of preventive detention [*Gopalan* v. *State of Madras*, (1950) S.C.R. 88 (*121-2*)]. As to how far such satisfaction can be challenged, see p. , *ante*.

3. The authority making the order of detention must state in the order the fact of its satisfaction that it is necessary to make the order of detention with a view to preventing the detenu from acting in a manner prejudicial to one or more of the objects contained in one on more of the sub-clauses of s. 8 (1) [*Naresh* v. *State of W. B.*, A. 1959 S.C. 1885 (*1340*)].

4. This expression includes Pakistan though it is not a foreign State' [*Jagannath* v. *Union of India*, (1960) 2 S.C.R. 784].

5. It has been held that preventive detention cannot be ordered 'for the maintenance of public order, for the following facts—
   (*a*) Blackmarketing [*R.* v. *Basudeva*, A. 1950 F. C. 67 (*69*)];
   (*b*) Contempt of Court or scurrilous remarks about a Judge [*Sodhi Shamser* v. *State of Pepsu*, A. 1954 S.C. 276];
   (*c*) Incitement not to pay taxes or other Government dues, 'unless the restriction is exclusively aimed at a general campaign for nonpayment or involves incitement to an offence [*Supdt.* v. *Ram Manahar*, A. 1960 S.C. 633 (640)];
   (*d*) Holding of meetings and processions when there is no allegation of violence [*Umrao-mal* v. *State of Rajasthan*, A. 1955 Raj. 6 (10)

6. This 'and' has been interpreted as disjunctive [*Dayananda* v. *State of Bihar*, A. 1951 Pat. 47 (*51*)].

7. Cl. (*iii*) is an independent clause and is not to be read *ejusdem generis* with cl. (*ii*). Hence, a person may be detained for the maintenance of supplies [*e.g.*, to suppress blackmarketing or hoarding], whether there is any likelihood or public order or not [*Dayananda* v. *State of Bihar*, A. 1951 Pat. 47 (52)]. But adulteration of foodstuffs is not covered by 'maintenance of supplies [*Mishrilal* v. *The State*, A. 1951 Pat. 184 (F.B.)]

8. Validity of s. (1) (*b*) has been upheld in *Hans Muller* v. *Supdt.*, (1955) 1 S.C.R. 1285 (*1295*).

9. It is contrary to the scheme of the Act that the period of detention should be specified in the initial order under s. 8, *before the case was placed bofere the Advisory Board.* If such period is fixed in the order under s. 8, it is void [*Makhan Singh* v. *State of Punjab*, (1952) S.C.R. 868].

section (2) *he shall forthwith*[10] *report the fact to the State Government to which he is subordinate together with grounds*[11] *on which the order has been made and such other particulars as in his opinion have a bearing on the matter, and no such order made after the commencement of the Preventive Detention (Second Amendment) Act, 1952, shall remain in force for more than twelve days*[12] *after the making thereof unless in the meantime it has been approved by State Government.*

(4) *When any order is made or approved by the State Government under this section, the State Government shall, as soon as may be, report the fact to the Central Government together with the grounds on which the order has been made and such other particulars as in the opinion of the State Government have bearing on the necessity for the order.*

Execution of detention orders.

3A. *A detention order may be executed at any place in India in the manner provided for the execution of warrants of arrest under the Code of Criminal Procedure, 1898 (Act V of 1898).*[13]

4. *Every person in respect of whom a detention order has been made shall be liable—*

Power to regulate place and condition of detention.

(*a*) *to be detained in such place*[13] *and under such conditions, including conditions as to maintenance, discipline and punishment for breaches of discipline, as the appropriate Government may, by general or special order, specify ; and*

(*b*) *to be removed from one place of detention to another place of detention whether within the same State or in another State, by order of the appropiate Government :*

Provided that no order shall be made by a State Government under clause (b) for the removal of a person from one State except with the consent of the Government of that other State.

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10. 'Forthwith' means immediately, but where owing to circumstances, not due to any act or default of the officer was not in a position to make the report to the Government, the order of detention cannot be held to be invalid for contravention of s. 8 (8). [*Keshav* v. *Commr. of Police*, A. 1957 S.C. 28 (*32*)].

11. While the object to the communication under s. 7 (1) is to enable the detenu to make representation, the object of the report to the State or Central Government under s. 8 (8) or (4) is to enable the Government to satisfy itself whether the detention should be approved. Hence the communication under s. 8 (8) need not be a formal document like that under s. 7 (1) ; there is a sufficient compliance with s. 8 (8) if the materials on which the order was made are communidated to the Government [*Shamrao* v. *District Magistrate*, A. 1957 S.C. 281].

On the other hand, the objects of the two provisions being different, the particulars communicated to the Government under s. 8 (8) or (4) may contain such details of facts as may not be communicated. in the public interest, to the person detained *Naresh* v. *State of W. B.*, A. 1959 S.C. 1885 (*1841*)].

12. A person who is detained beyond 12 days without an order of approval of the State Government is entitled to be released forthwith [*Bhimsingh* v. *The State*, A. 1957 *Raj* 5].

13. S. 3A does not curtail the extra-territorial juridiction conferred by S. 5 and does not imply that a detention order cannot be executed outside India, by virtue of an agreement or treaty with the foreign State concerned [*Gou Gopal* v. *Chief Secretary*, (1952) 56 C.W.N. 427 (*433*)].

14. Failure to mention in the detention order the place where he is going to be detained does not render the order invalid. Where there is a valid order for detaining the detenu, the absence of a valid order directing his detention in a particular place would not compel the Court to release the detenu if a valid order directing that he be detained in a particular place is passed by a proper authority before his release [*Prahlad* v. *State of Bombay*, A. 1952 Bom. 1 (6)].

Detention orders not to be invalid or inoperative on certain ground.

5. *No detention order shall be invalid or inoperative merely by reason—*

(a) that person to be detained thereunder is outside the limits of the territorial jurisdiction of the Govrnment or officer making the order,[15] *or*

(b) that the place of detention of such person is outside the said limits,

Powers in relation to absconding persons.

6. (1) If the Central Government or the State Government or an officer specefied in sub-section (2) of section 3 as the case may be, has reason to belive that a person in respect of whom a detention order has been made has absconded or is concealing himself so that the order cannot be executed, that Government or officer may—

(*a*) make a report in writing of the fact to a Presidency Magistrate or a Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides ; and thereupon the provisions of sections 87, 88 and 89 of the Code of Criminal Procedure, 1898 (Act V of 1898), shall apply in respect of the said person and his property as if the order directing that he be detained were a warrant issued by the Magistrate ;

(*b*) by order notified in the *Official Gazette* direct the said person to appear before such officer, at such place and within such period as may be specified in the order ; and if the said person fails to comply with such direction he shall. unless he proves it was not possible for him to comply therewith and that he had within the period specified in the order, informed the officer mentioned in the order of the reason which rendered compliance therewith impossible and of his whereabouts, be punishable with imprisonment for a term which may extend to one year or with fine or with both.

(*2*) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), every offence under clause (*b*) of subsection (1) shall be cognizable,

Grounds of order of detention to be disclosed to pessons affected by the order.

7. (1) When a person is detained in pursuance of a detention order, the authority making the order [16] shall, as soon as may be, *but not later than five days from the date of detention,* communicate [17] to him the grounds [18] on which the order has been made, and shall afford him the earliest opportunity of making a representation against the order *to the appropriate Government.*

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15. This section confers extra-territorial jurisdiction and authorises the making of an order of detention even though the person to be detained is outside the jurisdiction of the Government making the order—and even when he is in foreign territory [*Gourgopal* v. *Chief Secretary.* (1952) 56 C.W.N. 427 (*432*)]. The decision in *Re Ghate,* (1950) 52 Bom. L.R. 711 that a State Government cannot have an extra territorial authority to make an order of detention against a person residing outside the State has been superseded by the amendment of s. 5 of the P. D. Act in 1951.

16. S. 7 does not require that the communication of the grounds must be made directly by the authority making the order. The communication may be made through recognized channels prescribed by the administrative rules of business [*Ujagar* v. *State of Punjab,* (1950-51) C.C. 155]. Nor is there anything wrong if the order of detention is made by one District Magistrate and, on his transfer, the grounds are communicated by his successor [*In re Maganlal,* A. 1951 Bom. 88].

17. Verbal communication is not sufficient [*Inder Singh* v. *The State,* A. 1952 Pepsu 61]. Failure to communicate the grounds within time makes the detention illegal [*State of Bombay* v. *Atmaram,* A. 1951 S.C. 157].

18. 'Grounds' in this context means something more than a recital of the ground of satisfaction of the authority as contained in any of the sub-cls. of s. 8 (1) and which must

(2) Nothing in sub-section (1) shall require the authority to disclose facts which it considers to be against the public interest to disclose. [19]

Constitution of Advisory Boards.

8. (1) The Central Government and each State Government shall whenever necessary, constitute one or more Advisory Boards for the purposes of this Act.

(2) Every such Board shall consist of *three* persons who are or have been or are qualified to be appointed as, Judges of a High Court, and such person shall be appointed by the Central Government, as the case may be.[20]

(3) The appopiate Government shall appoint one of the members of the Advisory Board who is or has been a Judge of a High Court to be its Chairman, and the appointment to the Advisory Board, of any person who is a Judge of the High Court shall be with the previous approval of the State Government concerned :

Provided that nothing in this sub-section shall affect the power of an Advisory Board constituted before the commencement of the Preventive Detention (Second Amendment) Act, 1952, to dispose of any reference under section 9 pending before it at such commencement.

Reference to Advisory Boards

9. *In every case where a detention order has been made under this, Act, the appropriate Government shall, within thirty days from the date of detention under the order, place before the Advisory Board* [21] *constituted by it under section 8 the grounds on which the order has been made and the representation, if any, made by the person affected by the order, and in case where the order has been made by an officer, also the report by such officer, under sub-section (3) of section 3.* [22]

Procedure of Advisory Boards.

10. *(1) The Advisory Board shall, after considering the materials placed before it and, after calling for such further information as it may deem necessary* [24] *from the apprpriate Government or from any person called for the purpose through the appropriate Government or from the person concerned, and if in any particular case it considers it essential to do so or if the person concerned desires to be heard, after hearing him in person, submit its report to the appropriate Government within ten weeks*[23] *from the date of detention.*

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be given in the order itself. The grounds contemplated by s. 7 are the *conclusions of fact* which have led to the passing of the order. The order of detention itself may contain such a recital also ; but where it does not. s. 7 requires that within a period of 5 days from the date of detention, such conclusions of fact must be communicated to the detenue to inform him of the *reasons* why he was being detained. Again, if this communication does not contain all the particulars for enabling the detenu to make his represntation, he may ask for further particulars and then it will be the duty of the authority to furnish such particulars except those he is entitled to withhold under s. 7 (2) [*Naresh* v. *State of W. B* , A. 1959 S.C. 1885 (*1341*)]. Hence a mere communication of a sub-clause of s. 8 (1) is not a sufficient compliance witn the requirements of s. 7 (1) [*ibid*].

19. This sub-sec. reproduces cl. (6) Art. 22. Where the State takes recourse to this provision it must prove that the authority concerned was satisfied that it was not in the public interest to disclose the facts which have been withheld [*S ing ippa* v. *State of Mysore*, A. 1950 Mys. 7]. Even where such facts are disclosed to the Advisory Board under its direction, the detenu is not entitled to have copies thereof [*Jagannath Union of* v. *Union of India*, (1960) 2 S.C.R. 784].

20. Proviso to s 8 (2) omitted by Act LXI of 1952.

21. As to the scope of the Advisory Board, see under Cl. (4), p. 149, *ante*.

22. Substituted for s. 9 as amended in 1951, by Act LXI of 1952.

23 If the Board fails to submit its report within 10 weeks, the detenu is entitled to be set at liberty immediately thereafter [*Dharam* v. *State of Punjab*, (1958) S.C.R. 997].

24. It is entirely in the discretion of the Board whether any records should be called for : the detenu has no right in this respect [*Srinibas* v. *State of W. B.*, A. 1962 Cal. 162].

(2) The report[24] *of the Advisory Board shall specify in a separate part thereof the opinion of the Advisory Board as to whether or not there is sufficient cause for the detention of the person concerned.*

(2A) *When there is a difference of opinion among the members forming the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board.*

(3) Nothing in this section shall entitle any person against whom a detention order has been made to appear by any legal practitioner in any matter connected with the reference to the Advisory Board, and the proceedings of the Advisory Board and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential.

Action upon the Report of Advisory Board.

11. (1) *In any case where the Advisory Board has reported that there is in its opinion sufficient cause for the detention of a person, the appropriate Government may confirm the detention order*[1] *and continue the detention of the person concerned for such period as it thinks fit.*[2]

(2) In any case where the Advisory Board has reported that there is in its opinion no sufficient cause for the detention of the person concerned, the appropriate Government shall[3] *revoke the detention order and cause the person to be released forthwith.*

Maximum period of detention.

11A. (1) *The maximum period*[3] *for which any person may be detained in pursuance of any detention order which has been cofirmed under section 11 shall be twelve months from the date of detention.*

(2) *Notwithstanding anything contained in sub-section (1), every detention order which has been confirmed under section 11 before the commencement of the Preventive Detention (Second Amendment) Act, 1952, shall unless a shorter period is specified in the order, continue to remain in force until the 1st day of April, 1953, or until the expiration of twelve months from the date of detention, whichever period of detention expires later.*

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25. Ss. 10-11 do not specify what the Report of the Advisory Board should contain, besides the opinion. At any rate they do not require the Board to give its reasons as in a judgment. The Court has no power to examine the contents of the report to determine whether it is a report in conformity with s. 10 (1), for, under s. 10 (8), the entire report, excepting the opinion, is confidential [*Thevar* v. *tate of Madras*, A. 1958 Mad. 425].

1. There must be a formal order of confirmation and it must be made within a reasonable period from the date of receipt of the report of the Advisory Board [*Sital* v. *State*, A. 1952 Punj. 849], but not beyond three months from the date of detention [*Sang ippa* v. *State of Mysore*, A. 1959 Mys. 7]. But there is nothing in the section to require the Government to communicate the order of confirmation [*Prahlad* v. *State of Bombay*, A. 1952 Bom. 1 : *Afzal* v. *State of J. & K.*, (1957) S.C.R. 68 (67)], or the report of the Advisory Board [*Sarju* v. *State*, A. 1956 All. 589] to the detenu.

2. In *Krishnan* v. *State of Madras*, (1951) S.C.R. 621, the Supreme Court held that s. 11 (1) is not invalid on the ground that it authorises detention for an *indefinite* period, for, the Act itself being temporary, the detention will automatically terminate with the expiry of the Act, and in *Dattatraya* v. *State of Bombay* [A. 1952 S.C. 181] it was held that the period needed not be specified when confirming the detention order, Act LXI of 1952 has put a limit to detention for a indefinite period by providing, in s. 11A that when a detention order has been confirmed, the detention will terminate on the expiry of 12 months from the date of detention (unless revoked earlier). S. 11A, thus, controls s. 11 (1). Nor does s. 11 (1) violate Art. 22 (4) [*Punnalal* v. *Union of India*, A. 1958 S.C. 168].

3. By inserting s. 11A, Act, LXI of 1952, for the first time, prescribes the maximum period of detention under the P.D. Act. This is legislation in pursuance of the power conferred by Art. 22 (7) (b), p. 129, *ante*. S. 11A does not contravene Art. 14 of the Constitution [*Godavari* v. *State of Bombay*, A. 1958 S.C. 521].

(3) *The provisions of sub-section (2) shall have effect notwithstanding anything to the contrary contained in section 3 of the Preventive Detention (Amendment) Act, 1952 (XXXIV of 1952), but nothing contained in this section shall affect the power of the appropriate Government to revoke or modify the detention order at any earlier time.*

Validity and duration of detention in certain cases.[4]

12. *For the avoidance of doubt it is hereby decided that—*

(a) every detention order in force, at the commencement of the Preventive Detention (Amendment) Act, 1951, shall continue in force and shall have effect as if it had been made this Act as amended by the Preventive Detention (Amendment) Act, 1951 ; and

(b) nothing contained in sub-section (3) of section 1 or sub-section (1) of section 12 of this Act as originally enacted shall be deemed to affect the validity or duration of any such order.

Revocation of detention orders.

13. (1) Without prejudice to the provisions of section 21 of the General Clauses Act, 1897 (X of 1897) a detention order may at any time be revoked or modified—

(a) notwithstanding that the order has been made by an officer mentioned in the sub-section (2) of section 3, by the State Government to which that officer is subordinate or by the Central Government ; and

(b) notwithstanding that the order has been made by a State Government or by the Central Government.

(2) *The revocation or expiry of a detention order shall not bar the making of a fresh detention order under section 3 against the same person in any case where fresh facts have arisen after the date of revocation or expiry on which the Central Government or a State Government or an officer, as the case may be, is satisfied that such an order should be made.*[5]

Temporary release of persons detained.

14. (1) *The appropriate Government may at any time direct that any person detained in pursuance of detention order may be released for any specified period either without conditions or upon such conditions specified in the direction as that person accepts, and may at any time cancel his release.*

(2) *In directing the release of any person under sub-section (1), the appropriate Government may require him to enter into a bond with or without sureties for the due observance of the conditions specified in the direction.*

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4. S. 12 of the original P. D, Act, 1950 provided that there was to be no review in cases falling within s. 8 (1) (ii). The scheme of the Amendment Act of 1951 is (i) to extend the benefit of a review by advisory Board to *all cases* [s. 9 (1)] and (ii) to bind the detaining authorities to act in conformity with the report of the Board [s. 11 (2)] *Krishnan* v. *State of Madras*, (1951) S.C.R. 621.) S. 12, read with s. 9 (2) (a) has been held to be valid as being a law 'substantially' in accordance with sub-cls. (a) and (b) of cl. (7) of Art. 22 of the Constitution [*Krishnan* v. *State of Madras*, (1951) S.C.R. 621].

5. The above sub-section was substituted by Act LXI of 1952 for the original s. 18 (2) which was as follows :

"The revocation of a detention order shall not bar the making of a fresh detention order under s. 8 against the same person."

It would, accordingly, seem that the intention of the Legislature behind the amendment is to confine the making of a fresh order to the case where there are *fresh* facts justifying the fresh order.

This sub-section also overrides the decision in *Dattatraya* v, *State of Bombay*, A, 1952 S,C, 181, to the effect that the detaining authority may extend the period of detention, from time to time, subject to the over-all limit of duration of the Act itself,

(3) *Any person released under sub-section* (1) *shall surrender himself at the time and place, and to the authority, specified in the order directing his release or cancelling his release, as the case may be.*

(4) *If any person fails without sufficient case to surrender himself in the manner specified in sub-section* (3), *he shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.*

(5) *If any person released under sub-section* (1), *fails to fulfil any of the conditions imposed upon him under the said sub-section or in the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to pay the penalty thereof.*

Protection of action taken under the Act.

15. No suit, prosecution or other legal proceedings shall lie against any person for any person for anything in good faith done or intended to be done in pursuance of this Act.

IV. ARTICLE 59 (3).

THE PRESIDENT'S PENSION ACT, 1951

(ACT NO. 30 OF 1951)

An Act to provide for the payment of pensions to retiring Presidents

[*13th May 1951.*]

BE it enacted by Parliament as follows :—

1. This Act may be called the President's Pension Act, 1951.

2. (1) There shall be paid to every person who ceases to hold office as President, either by the expiration of his term of office or by resignation of his office, a pension of fifteen thousand rupees per annum for the remainder of his life :

(2) Subject to any rules that may be made in this behalf, every such person shall, for the remainder of his life, be entitled—

(a) to secretariat staff and office expenses, the total expenditure on which shall not exceed twelve thousand rupees per annum ; and

(b) to medical attendance and treatment. free of charge.

(3) where any such person is reelected to the office of President, he shall not be entitled to any benefit under this section for the period during which he again holds that office. 1

3. The provisions of section 2 shall apply to the person who held office as the last Governor-General of India as they shall apply to any person who ceases to hold office as President.

4. Any sum payable under this Act shall be charged on the Consolidated Fund of India.

5. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.[1]

1. Added by the President's Pension (Amendment) Act, 1962.

V. ARTICLE 71 (3).

THE PRESIDENTIAL AND VICE-PRESIDENTIAL ELECTIONS ACT, 1952

PART I

PRELIMINARY

SECTIONS

1. Short title.
2. Definitions.

PART II

CONDUCT OF PRESIDENTIAL AND VICE-PRESIDENTIAL ELECTIONS

3. Returning Officer and his assistants.
4. Appointment of dates for nominations, etc.
5. Nomination of candidates.
6. Withdrawal of candidature.
7. Death of candidate before poll.
8. Procedure in contested and uncontested elections.
9. Manner of voting at elections.
10. Counting of votes.
11. Declaration of results.
12. Report of the result.

PART III

DISPUTES REGARDING ELECTIONS

13. Definitions.
14. Election petitions.
15. Form of petitions, etc., and procedure.
16. Relief that may be claimed by the petitioner.
17. Orders of the Supreme Court.
18. Grounds for declaring the election of a returned candidate to be void.
19. Grounds for which a candidate other than the returned candidate may be declared to have been elected.
20. Transmission of orders to the Central Government and its publication.

PART IV

MISCELLANEOUS

21. Power to make rules.
22. Maintenance of secrecy of voting.
23. Jurisdiction of Civil Courts barred

THE PRESIDENTIAL AND VICE-PRESIDENTIAL ELECTIONS ACT, 1952 (31 OF 1952)

[*14th March*, 1952.]

An Act to regulate certain matters relating to or connected with elections to the offices of President and Vice-President of India.

BE it enacted by Parliament as follows :—

PART I

PRELIMINARY

Short title.

1. This Act may be called the Presidential and Vice-Presidential Elections Act, 1952.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "article" means an article the Constitution,

(*b*) "election" means a Presidential election or Vice-Presidential election ;

(*c*) "Election Commission" means the Election Commission appointed by the President under article 324 ;

(*d*) "elector", in relation to a Presidential election, means a member of the electoral college referred to in article 54, and in relation to a Vice-Presidential election, means a member of either House of Parliament ;

(*e*) "prescribed" means prescribed by rules made under this Act ;

(*f*) "Presidential election" means an election to fill the office of the President of India ;

(*g*) "Returning Officer" includes an Assistant Returning Officer performing any function which he is authorised to perform under sub-section (2) of section 3 ;

(*h*) "Vice-Presidential election" means an election to fill the office of the Vice-President of India.

PART II

CONDUCT OF PRESIDENTIAL AND VICE-PRESIDENTIAL ELECTIONS

Returning Officer and his assistants.

3. (1) For the purposes of each election the Election Commission shall, in consultation with the Central Government, appoint a Returning Officer who shall have his office in New Delhi and may also appoint one or more Assistant Returning Officers.

(2) Subject to rules made under this Act, every Assistant Returning Officer shall be competent to perform all or any of the functions of the Returning Officer.

Appointment of dates for nominations, etc.

4. (1) The Election Commission shall, by notification in the Official Gazette, appoint for every election—

(*a*) the last date for making nominations which shall be a date not later than the fourteenth day and not earlier than the eighth day after the date of publication of the notification under this sub-section ;

(*b*) a date for the scrutiny of nominations which shall be a date not later than the third day after the last date for making nominations ;

(*c*) the last date for the withdrawal of candidatures which shall be the third day after the date for the scrutiny of mominations ;

(*d*) the date on which a poll shall, if necessary, be taken, which shall be a date not earlier than the fifteenth day after the last date for the withdrawal of candidatures.

(2) In the case of the first Presidential and Vice-Presidential elections, the notifications under sub-section (1) shall be issued as soon as may be after both Houses of Parliament have been constituted.

(3) In the case of an election to fill a vacancy caused by the expiration of the term of office of the President or Vice-President, the notification under sub-section (1) shall be issued on, or as soon as conveniently may be after, the sixtieth day before the expiration of the term of office the outgoing President or Vice-President, as the case may be, and the dates shall be so appointed under the said sub-section that the election will be completed at such time as will enable the President or the Vice-President thereby elected to enter upon his office on the day following the expiration of the term of office of the outgoing President or Vice-President, as the case may be.

(4) In the case of an election to fill a vacancy in the office of President or Vice-President occurring by reason of his death resignation or removal or otherwise, the notification under sub-section (1) shall issued as soon as may be after the occurrence of such vacancy.

Nomination of candidates.

5. (1) any person may be nominated as a candidate for election to the office of President or Vice-President if he is qualified to be elected to that office under the Constitution.

(2) Each candidate shall be nominated by a nomination paper completed in the prescribed form and subscribed by the candidate himself as assenting to the nomination and by two electors as proposer and seconder.

Withdrawal of candidature.

6. Any candidate may withdraw his candidature by a notice in writing in the prescribed form subscribed by him and delivered by him and delivered before three o'clock in the afternoon on the date fixed under clause (c) of sub-section (1) of section 4, to the Returning Officer either by such candidate in person or by his proposer or seconder who has been authorised in this behalf in writing by such candidate.

(2) No person who has given a notice of withdrawal of his candidature under sub-section (1) shall be allowed to cancel the notice,

(3) The Returning Officer shall, on receiving a notice of withdrawal under sub-section (1), as soon as may be thereafter, cause a notice of the withdrawal to be affixed in some conspicuous place in his office.

Death of candidate before poll.

7. If a candidate, whose nomination has been made and is found to be in order on scrutiny, dies after the time fixed for nomination and a report of his death is received by the Returnig Officer before the commencement of the poll, the Returning Officer shall, upon being satisfied of the fact of the death of the candidate, countermand the poll and report the fact to the Election Commission, and all proceedings with reference to the election shall be commenced anew in all respects as if for a new election :

Provided that no further nomination shall be necessary in the case of a candidate whose nomination was valid at the time of the countermanding of the poll ;

Provided further that no person who has under sub-section (1) of section 6 given a notice of withdrawal of his candidature before the countermanding of the

poll shall be ineligible for being nominated as a candidate for the election after such countermanding.

Procedure in contested uncontested elections.

8. If after the expiry of the period within which candidatures may be withdrawn under sub-section (1) of section 6—

(*a*) there is only one candidate who has been validly nominated and has not withdrawn his candidature in the manner and within the time specified in that sub-section, the Returning Officer shall forthwith declare such candidate to be duly elected to the office of President or Vice President, as the case may be ;

(*b*) the number of candidates who have been duly nominated but have not so withdrawn their candidatures exceeds one, the Returning Officer shall forthwith publish in such form and manner as may be prescribed a list containing the names in alphabetical order and addresses of candidates as given in the nomination papers, together with such other particulars as may be prescribed, and a poll shall be taken ;

(*c*) there is no candidate who has been duly nominated and has not so withdrawn his candidature, the Returning Officer shall report the fact to the Election Commission and thereafter all the proceedings in relation to the election shall be commenced afresh and for that purpose the Election Commission shall cancel the notification issued under sub-section (1) of section 4 in respect of such election and issue another notification under that sub-section appointing the dates referred to in that sub-section for the purposes of such fresh election.

Manner of voting at elections.

9. At every election where a poll is taken, votes shall be given by ballot in such manner as may be prescribed, and no votes shall be received by proxy.

Counting of votes.

10. At every election where a poll is taken, votes shall be counted by, or under the supervision of, the Returning Officer, and each candidate and one representative of each candidate authorised in writing by the candidate, shall have a right to be present at the time of counting.

Declaration of results.

11. When the counting of the votes has been completed, the Returning Officer shall forthwith declare the result of the election in the manner provided by this Act or the rules made thereunder.

Report of the result.

12. As soon as may be after the result of an election has been declared, the Returning Officer shall report the result to the Central Government and the Election Commission, and the Central Government shall cause to be published in the Official Gazette the declaration containing the name of the person elected to the office of President or Vice-President, as the case may be.

PART III

DISPUTES REGARDING ELECTIONS

Definitions.

13. In this Part, unless the context otherwise requires—

(*a*) "candidate" means a person who has been or claims to have been duly nominated as a candidate at an election, and any such person shall be deemed to have been a candidate as from the time when, with the election in prospect, he began to hold himself out as a prospective candidate ;

(*b*) "costs" means all costs, charges and expenses of, or incidental to, trial of an election petition ;

(*c*) "returned candidate" means a candidate whose name has been published under section 12 as duly elected.

Election petitions.

14. (1) No election shall be called in question except by an election petition presented to the Supreme Court in accordance with the provisions of this Part and of the rules made by the Supreme Court under article 145.

(2) An election petition calling in question an election may be presented on one or more of the grounds specified in sub-section (1) of section 18 and section 19 to the Supreme Court by any candidate at such election or by ten or more electors joined together as petitioners.

(3) Any such petition may be presented at any time after the date of publication of the declaration containing the name of the returned candidate at the election under section 12 but not later than thirty days from the date of such publication.

Form of petitions, etc, and procedure.

15. Subject to the provision of this Part, rules made by the Supreme Court under article 145 may regulate the form of election petitions, the manner in which they are to be presented, the persons who are to be made parties thereto, the procedure to be adopted in connection therewith and the circumstances in which petitions are to abate, or may be withdrawn, and in which new petitioners may be substituted, and may require security to be given for costs.

Relief that may be claimed by the petitioner.

16. A petitioner may claim either of the following declarations :—

(*a*) that the elcetion of the returned candidate is void ;

(*b*) that the election of the returned candidate is void and that he himself or any other candidate has been duly elected.

Orders of the Supreme Court.

17. (1) At the conclusion of the trial of the election petition, the Supreme Conrt shall make an order—

(*a*) dismissing the election petition ; or

(*b*) declaring the election of the returned candidate to be void ; or

(*c*) declaring the election of the returned candidate to be void and the petitioner or any other candidate to have been duly elected.

(2) At the time of making an order under sub-section (1), the Supreme Court shall also make an order fixing the total amount of costs payable and specifying the persons by and to whom costs shall be paid.

Grounds for declaring the election of a returned candidate to be void.

18. (1) If the Supreme Court is of opinion—

(*a*) that the offence of bribery or undue influence at the election has been committed by the returned candidate or by any person with the connivance of the returned candidate ; or

(*b*) that the result of the election has been materially affected—

(*i*) by reason that the offence of bribery or undue influence at the election has been committed by any person who is neither the returned candidate nor a person acting with his connivance, or

(*ii*) by the improper reception or refusal of a vote, or

(*iii*) by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act ; or

(*c*) that the nomination of any candidate has been wrongly rejected or the nomination of the successful candidate or of any other candidate who has not withdrawn his candidature has been wrongly accepted ;

the Supreme Court shall declare the election of the returned candidate to be void.

(2) For the purposes of this section, the offences of bribery and undue influence at an election have the same meaning as in Chapter IX-A of the Indian Penal Code (Act 45 of 1860).

Grounds for which a candidate other than the returned candidate may be declared to have been elected.

19. If any person who has lodged an election petition has, in addition to calling in question the election of the returned candidate, claimed a declaration that he himself or any other candidate has been duly elected and the Supreme Court is of opinion that in fact the petitioner or such other candidate received a majority of the valid votes, the Supreme Court shall, after declaring the election of the returned candidate to be void, declare the petitioner or such other candidate. as the case may be, to have been duly elected :

Provided that the petitioner or such other candidate shall not be declared to be duly elected if it is proved that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented calling in question his election.

Transmission of orders to the Central Government and its publication,

20. The Supreme Court shall, after announcing the orders made under section 17, send a copy thereof to the Central Government, and on receipt of such copy the Central Government shall forthwith cause the order to be published in the Official Gazette.

PART IV

MISCELLANEOUS

Power to make rules.

21. (1) The Central Government may, after consulting the Election Commission, by notification in the Official Gazette, make rules* for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the maintenance of a list of members of the electoral college referred to in article 54 with their addresses corrected up to date for the purposes of Presidential elections ;

(*b*) the maintenance of a list of members of both Houses of Parliament with their addresses corrected up to date for the purposes of Vice-Presidential elections ;

(*c*) the powers and duties of a Returning Officer and the performance by any officer appointed to assist the Returning Officer of any function of the Returning Officer ;

See the Presidential and Vice-Presidential Elections Rules,

(*d*) the form and manner in which nominations may be made and the procedure to be followed in respect of the presention of nomination papers ;

(*e*) the scrutiny of nominations and, in particular, the manner in which such scrutiny shall be conducted and the conditions and circumstances under which any person may be present or may enter objections threat ;

(*f*) the publication of a list of valid nominations ;

(*g*) the place and hours of polling, the manner in which votes are to be given and the procedure as to voting to be followed at elections ;

(*h*) the scrutiny and counting of votes including cases in which a re-count of the votes may be made before the declaration of the result of the election ;

(*i*) the safe custody of ballot boxes, ballot papers and other election papers, the period for which such papers shall be preserved and the inspection and production of such papers ;

(*j*) any other matter required to be prescribed by this Act.

Maintenance of secrecy of voting.

22. (1) Every officer, clerk or other person who performs any duty in connection with the recording of votes at an election shall maintain, and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

Jurisdiction of civil courts barred.

23. Save as provided in Part III, no civil court shall have jurisdiction to question the legality of any action taken or of any decision given by the Returning Officer or by any other person appointed under this Act in connection with an election.

VI. ARTICLE 75 (6).

THE SALARIES AND ALLOWANCES OF MINISTERS ACT, 1952 (ACT NO. 58 OF 1952)

An Act to provide for the salaries and allowances of Ministers.

[*12th August, 1952.*]

BE it enacted by Parliament as follows :—

1. This Act may be called the Salaries and Allowances of Ministers Act, 1952.

2. In this Act, "Minister" means a member of the Council of Ministers, by whatever name called, and includes a Deputy Minister.

3. There shall be paid to each Minister, other than a Deputy Minister, a salary of two thousand two hundred and fifty rupees *per mensem*, and to each Deputy Minister a salary of one thousand seven hundred and fifty rupees *per mensem*.

4. Each Minister shall be entitled without payment of rent to the use of a furnished residence throughout his term of office and for a period of fifteen days immediately thereafter, and no charge shall fall on the Minister personally in respect of the maintenance of such residence.

Explanation.—For the purposes of this section, "residence" includes the staff quarters and other buildings appurtenant thereto, and the garden thereof, and "maintenance" in relation to a residence includes the payment of local rates and taxes and the provision of electricity and water.

5. The Central Government may, by rules made in this behalf, provide for the grant of a sumptuary allowance not exceeding five hundred rupees *per mensem* to any Minister other than a Deputy Minister, and such rules may provide for the grant of the allowance to different Ministers at different rates.

6. (*1*) Subject to any rules made in this behalf by the Central Government, a Minister shall be entitled to—

(*a*) travelling allowances for himself and the members of his family and for the transport of his and his family's effects—

(*i*) in respect of the journey to Delhi from his usual place of residence outside Delhi for assuming office, and

(*ii*) in respect of the journey from Delhi to his usual place of residence outside Delhi on relinquishing offiice ; and

(*b*) travelling and daily allowances in respect of tours undertaken by him in the discharge of his officlal duties, whether by sea, land or air.

(*2*) Any travelling allowance under this section may be paid in cash or free official transport provided in lieu thereof.

7. Subject to any rules made in this behalf by the Central Government, a Minister and the members of his family shall be entitled free of charge to accommodation in hospitals maintained by the Government and also to medical treatment.

8. There may be paid to any Minister by way of a repayable advance such sum of money as may be determined by rules made in this behalf for the purchase of a motor-car in order that he may be able to discharge conveniently and efficiently the duties of his office.

9. No person in receipt of a salary or allowance under this Act shall be entitled to receive any sum out of funds provided by Parliament by way of salary or allowance in respect of his membership of either House of Parliament.

10. The date on which any person become or ceased to be a Minister shall be published in the Official Gazette, and any such notification shall be conclusive evidence of the fact that he became, or ceased to be, a Minister on that date for all the purposes of this Act.

11. (*1*) The Central Government may, by notification in the Official Gazette, make rules[1] for carrying out the purposes of this Act.

1. For such rules, see Gazette of India, Extraordinary, Pt. II, Sec. 8, 1952 pp, 808, 885, 887, 849, ibid, 1958, pp, 101, 528, 2269, 8467.

(2) All rules made under this Act shall be laid before both Houses of Parliament as soon as may be after they are made.

12. All salaries paid or payable for the period commencing on the 14th day of May, 1952, and ending with the commencement of this Act to Ministers described as Ministers of Cabinet rank (but not Members of the Cabinet), all charges incurred before the commencement of this Act in respect of the accommodation provided in any hospital maintained by the Central Government for or on the medical treatment of any Minister or any member of his family and all payments made before such commencement by way of travelling or daily allowances to any Deputy Minister, shall be deemed to have been properly paid, payable or incurred or made.

13. [*Repeal of Act 53 of 1947.*] *Rep. by the Repealing and Amending Act, 1957 (36 of 1957), s. 2 and Sch. I.*

VII. ARTICLES 80—81.

THE REPRESENTATION OF THE PEOPLE ACT, 1950

PART I

PRELIMINARY

SECTIONS

1. Short title.
2. Definitions.

PART II

ALLOCATION OF SEATS AND DELIMITATION OF CONSTITUENCIES

The House of the People

3. Allocation of seats in the House of the People.
3A. [*Repealed.*]
4. Filling of seats in the House of the People.
5. [*Repealed.*]
6. [*Repealed.*]

The State Legislative Assemblies

7. Total number of seats in the Legislative Assemblies.
8. [*Repealed.*]
9. [*Repealed.*]

The State Legislative Councils

10. Allocation of seats in the Legislative Councils.
11. Delimitation of Council constituencies.

Provisions as to orders delimiting constituencies

12. Power to alter or amend orders.
13. Procedure as to orders delimiting constituencies.

PART IIA

OFFICERS

SECTIONS

18A. Chief electoral officers.
18B. Electoral registration officers.
18C. Assistant electoral registration officers.

PART IIB

ELECTORAL ROLLS FOR PARLIAMENTRY CONSTITUENCIES

18D. Electoral roll for Parliamentary constituencies.

PART III

ELECTORAL ROLLS FOR ASSEMBLY CONSTITUENCIES

14. Definitions.
15. Electoral roll for every constituency.
16. Disqualifications for registration in an electoral roll.
17. No person to be registered in more than one constituency.
18. No person to be registered more than once in any constituency.
19. Conditions of registration.
20. Meaning of "ordinarily resident".
21. Preparation and revision of electoral rolls.
22, Correction of entries in electoral rolls.
23. Inclusion of names in electoral rolls.
24. [*Repealed.*]

PART IV

ELECTORAL ROLLS FOR COUNCIL CONSTITUENCIES

26. [*Repealed.*]
27. Preparation of electoral rolls for Council constituencies.

PART IVA

MANNER OF FILLING SEATS IN THE COUNCIL OF STATES TO BE FILLED BY REPRESENTATIVES OF UNION TERRITORIES

27A. Constitution of electoral colleges for the filling of seats in the Council of States allotted to Union territories.
27B—27F. [*Repealed.*]
27G. Termination of membership of electoral college for certain disqualifications.
27H. Manner of filling of seats in the Council of States allotted to Union territories.
27I. [*Repealed.*]
27J. Power of electoral colleges to elect notwithstanding vacancies therein.
27K. [*Repealed.*]

PART V

GENERAL

28. Power to make rules.
29. Staff of local authorities to be made available.
30. Jurisdiction of Civil Courts barred.
31. Making of false declarations.
32. Breach of official duty in connection with the preparation, etc., of electoral rolls.

SECTIONS

THE FIRST SCHEDULE.—ALLOCATION OF SEATS IN THE HOUSE OF THE PEOPLE.

THE SECOND SCHEDULE.—TOTAL NUMBER OF SEATS IN THE LEGISLATIVE ASSEMBLIES.

THE THIRD SCHEDULE.—ALLOCATION OF SEATS IN THE LEGISLATIVE COUNCILS.

THE FOURTH SCHEDULE.—LOCAL AUTHORITIES FOR PURPOSES OF ELECTIONS TO LEGISLATIVE COUNCILS.

THE FIFTH SCHEDULE.—NUMBER OF MEMBERS OF ELECTORAL COLLEGES.

THE SIXTH SCHEDULE.—[*Repealed.*]
THE SEVENTH SCHEDULE.—[*Repealed.*]

THE REPRESENTATION OF THE PEOPLE ACT, 1950

43 OF 1950

[12*th May*, 1950.]

An Act to provide for the allocation of seats in, and the delimitation of constituencies for the purpose of elections to, the House of the People and the Legislatures of States, the qualifications of voters at such elections, the preparation of electoral rolls, [1][the manner of filling seats in the Council of States to be filled by representatives of [2][Union territories], and matters connected therewith.

BE it enacted by Parliament as follows:—

PART I

PRELIMINARY

Short title.

1. This Act may be called the Representation of the People Act, 1950.

Definitions.

2. [3] * * * In this Act unless the context otherwise requires,—

(*a*) "article" means an article of the Constitution ;

(*b*) "Assembly constituency" means a constituency provided[4][by law] for the purpose of elections to the Legislative Assembly of a State ;

(*c*) "Council constituency" means a constituency provided[5] [by law] for the purpose of elections to the Legislative Council of a State;

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1. Ins. by Act 78 of 1950, s. 2.
2. Subs. by the Adaptation of Laws (No. 2) Order, 1956, for "Part C States",
3. The brackets and figure "(1)" omitted by Act 108 of 1956, s. 65.
4. Subs. by Act 2 of 1956, s. 2, for "by order made under section 9".
5. Subs. by the Adaptation of Laws (No. 2) Order, 1956, for "by order made under section 11".

(*d*) "Election Commission" means the Election Commission appointed by the President under article 324 ;

(*e*) "order" means an order published in the Official Gazette ,

(*f*) "parliamentary constituency" means a constituency provided[7] [by law] for the purpose of elections to the House of the People ;

[8][(*ff*) "Part B tribal areas" means the tribal areas of Assam specified in Part B of the table appended to paragraph 20 of the Sixth Schedule to the Constitution ;]

(*g*) "person" does not include a body of persons ;

(*h*) "prescribed" means prescribed by rules made under this Act ;

[9][(*i*) "State" includes a Union territory ;

(*j*) "State Government", in relation to a Union territory, means the administrator thereof.]

[10]*

PART II

ALLOCATION OF SEATS AND DELIMITATION OF CONSTITUENCIES

The House of the People

Allocation of seats in the House of the People.

3. [11][(1) The allocation of seats in the House of the People shall be as shown in the First Schedule.] .

(2) To each State [12][and the areas] specified in the first column of the First Schedule, there shall be allotted the number of seats specified in the second column thereof opposite to that State [6][and those areas respectively].

[13]**3A.** [*Reservation of seat in the House of the people for Scheduled Castes and Scheduled Tribes in certain Union territories.*] *Rep. by the Representation of the People (Amendment) Act,* 1958 (58 *of* 1958), *s.* 3.

Filling of seats in the House of the People.

4. (1) The seats allotted under section 3 to the State of Jammu and Kashmir [14][, to the Andaman and Nicobar Islands,[15] [to the Laccadive, Minicoy and Amindivi Islands][16] [, to Dadra and Nagar Haveli] and to the Part B tribal areas] shall be seats to be filled by persons nominated by the President.

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6. Cl. (*cc*) omitted by Act 108 of 1956, s. 65.
7. Subs. by Act 2 of 1956, s. 2, for "by section 6 or by order made thereunder".
8. Ins. by Act 67 of 1951, s. 2
9. Subs. by the Adaptation of Laws (No. 2) Order, 1956, for cl. (*i*).
10. Sub-section (2) omitted, *ibid.*
11. Subs. by Act 58 of 1958, s. 2, for sub-section (1).
12. Ins. by Act 67 of 1951, s. 8.
13. Ins. by Act 27 of 1951, s. 2.
14. Subs. by Act 67 of 1951, s. 4, for "and to the Andaman and Nicobar Islands".
15. Ins. by the Adaptation of Laws (No. 2) Order, 1956.
16. Ins. by Act 85 of 1961, s. 8 (w.e.f. 11-8-1961).

(2) Save as aforesaid, all the other seats in the House of the People allotted to the States under that section shall be seats to be filled by persons chosen by direct election.

5. [*Parliamentary constituencies.*] *Rep. by the Representation of the people (Amendment) Act*, 1956 (2 *of* 1956), *s.* 4.

6. [*Delimitation of Parliamentary constituencies.*] *Rep. by the Adaptation of Laws (No.* 2*) Order*, 1956.

The State Legislative Assemblies

Total number of seats in the Legislative Assemblies.

[17][7. The total number of seats in the Legislative Assembly of each State specified in the first column of the Second Schedule, to be filled by persons chosen by direct election, shall be the number specified in the second column thereof opposite to that State.]

8. [*Assembly constituencies.*] *Rep. by the Represntation of the People (Amendment) Act*, 1956 (2 *of* 1956), *s.* 5.

9. *Delimitation of Assembly constituencies.*] *Rep. by the Adaptation of Laws (No.* 2 *) Order*, 1956.

The State Legislative Councils

Allocation of seats in the Legislative Councils.

10. (1) The allocation of seats in the Legislative Councils of the States having such Councils shall be as shown in the Third Schedule.

(2) In the Legislative Council of each State specified in the first column of the Third Schedule, there shall be the number of seats specified in the second column thereof opposite to that State, and of those seats,—

(*a*) the numbers specified in the third, fourth and fifth columns shall be the numbers of seats to be filled by persons elected, respectively, by the electorates referred to in sub-clauses (*a*), (*b*) and (*c*) of clause (3) of article 171 ;

(*b*) the number specified in the sixth column shall be the number of seats to be filled by person elected by the members of the Legislative Assembly of the State from amongst persons who are not members of that Assembly ; and

(*c*) the number specified in the seventh column shall be the number of seats to be filled by persons nominated by the Governor[18] * * * of the State in accordance with the provisions of clause (5) of article 171.

[19]* * * * * *

Delimitation of Council constituencies.

11. As soon as may be after he commencement of this Act, the President shall, by order determine—

(*a*) the constituencies into which each State having a Legislative Council shall be divided for the purpose of elections to that Council under each of the sub-clauses (*a*), (*b*) and (*c*) of clause. (3) of article 171 ;

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17. Subs. by Act 58 of 1958, s. 4, for s. 7.

18. The words "or Rajpramukh, as the case may be" omitted by the Adaptation of Laws (No. 2) Order, 1956.

19. Sub-section (8) ins. by the Adaptation of Laws (No. 2) Order, 1956, omitted by Act 87 of 1957, s. 12.

(*b*) the extent of each constituency ; and

(*c*) the number of seats allotted to each constituency.

Provisions as to orders delimiting constituencies.

Power to alter or amend orders.

12. [20][(1)] The President may, from time to time, after consulting the Election Commission, by order, alter or amend any order made by him under[21] * * * section 11.

[20][(2) An order under sub-section (1) may contain provisions for the allocation of any member representing any council constituency immediately before the making of the order to any constituency delimited anew or altered by the order and for such other incidental and consequential matters as the President may deem necessary.]

13. [22]*

Procedure as to orders delimiting constituencies.

(3) Every order made under[23] * * * section 11 or section 12 shall be laid before Parliament as soon as may be after it is made, and shall be subject to such modifications as Parliament may make on a motion made within twenty days from the date on which the order is so laid.

[24][PART IIA]

OFFICERS

Chief electoral officers.

13A. (1) There shall be for each State a chief electoral officer who shall be such officer of Government as the Election Commision may, in consultation with that Government, designate or nominate in this behalf.

(2) Subject to the superintendence, direction and control of the Election Commission, the chief electoral officer shall supervise the preparation, revision and correction of all electoral rolls in the State under this Act.

Electoral registration officers.

13B. (1) The electoral roll[25] [for each Parliamentary constituency in a Union territory, each assembly constituency and each Council constituency] shall be prepared and revised by an electoral registration officer who shall be such officer of Government or of a local authority as the Election Commision may, in consultation with the Government of the State in which the constituency is situated, designate or nominate in this behalf.

(2) An electoral registration officer may, subject to any prescribed restrictions, employ such persons as he thinks fit for the preparation and revision of the electoral roll for the constituency.

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20. S. 12 re-numbered as sub-section (1) of that section and sub-section (2) ins. by Act 20 of 1960, s. 2.

21. The words and figures "section 6, section 9 or" omitted by Act 2 of 1956, s. 7.

22. Sub-sections (1) and (2) omitted by s. 8, *ibid.*

23. The words and figures "section 6, section 9" omitted by s. 8, *idid.*

24. Part IIA and Part IIB ins. by s. 9, *ibid.*

25. Subs. by Act 108 of 1956, s. 65, for certain words.

Assistant electoral registration officers.

13C. (1) The Election Commision may appoint one or more persons as assistant electoral registration officers to assist any electoral registration officers in the performance of his functions.

(2) Every assistant electoral registration officer shall, subject to the control of the electoral registration officer, be competent to perform all or any of the electoral registration officer.

PART IIB

ELECTORAL ROLLS FOR PARLIAMENTARY CONSTITUENCIES

Electoral roll for parliamentary constituencies.

[1][**13D.** (1) The electoral roll for every parliamentary constituency other than a parliamentary constituency in a Union territory shall consist of the electoral rolls of so much of the assembly constituencies as are comprised within that parliamentary constituency ; and it shall not be necessary to prepare or revise separately the electoral roll for any such parliamentary constituency.

(2) The provisions of Part III shall apply in relation to every parliamentary constituency in a Union territory as they apply in relation to an aasembly constituency.]

PART III

[2][ELECTORAL ROLLS FOR ASSEMBLY[3] * * * CONSTITUENCIES]

Definitions.

[4][**14.** In this Part, unless the context otherwise requires,—

(*a*) "constituency" means an Assembly constituency[3] * * * ;

(*b*) "qualifying date", in relation to the preparation or revision of every electoral roll under this Part, means[5] [the 1st day of January] of the year in which it is so prepared or revised]

Electoral roll for every constituency.

15. For every constituency there shall be an electoral roll which shall be prepared in accordance with the provisions of this Act under the superintendence, direction and control of the Election Commission.

Disqualifications for registration in an electoral roll.

16. (1) A person shall be disqualified for registration in an electoral roll if he—

(*a*) is not a citizen of India ; or

(*b*) is of unsound mind and stands so declared by a competent court ; or

(*c*) is for the time being disqualified from voting under the provisions of any law relating to corrupt[6] * * * practices and other offences in connection with elections.

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1. Subs. by s. 65, *ibid*,, for s. 18D.
2. Subs. by Act 2 of 1956, s. 10, for the heading "REGISTRATION OF PARLIAMENTARY ELECTORS".
3. Certain words omitted by Act 108 of 1956, s. 65.
4. Subs. by Act 2 of 1956, s. 14.
5. Subs. by Act 58 of 1958, s. 5, for "the 1st day of March" (w.e.f. 1-1-1959).
6. The words "and illegal" inserted by Act 78 of 1950, s. 4, were omitted by Act 58 of 1960, s. 8 and Sch. II.

(2) The name of any person who becomes so disqualified after registration shall forthwith be struck off the electoral roll in which it is included :

[7][Provided that the name of any person struck off the electoral roll of a constituency by reason of a disqualification under clause (c) of sub-section (1) shall forthwith be re-instated in that roll if such disqualification is, during the period such roll is in force, removed under any law authorizing such removal.]

No person to be registered in more than one constituency.

17. No person shall be entitled to be registered in the electoral roll for more than one constituency[8] * * *.

No person to be registered more than once in any constituency.

18. No person shall be entitled to be registered in the electoral roll for any constituency more than once.

Conditions of registration.

[9][**19.** Subject to the foregoing provisions of this Part, every person who—

(*a*) is not less than twenty-one years of age on the qualifying date, and

(*b*) is ordinarily resident in a constituency,

shall be entitled to be registered in the electoral roll for that constituency,]

Meaning of "ordinarily resident"

20. [10][(1) A person shall not be deemed to be ordinarily resident in a constituency on the ground only that he owns, or is in possession of, a dwelling house therein,

(1A) A person absenting himself temporarily from his place of ordinary residence shall not by reason thereof cease to be ordinarlly resident therein,

(1B) A member of Parliament or of the Legislature of a State shall not during the term of his office cease to be ordinarily resident in the constituency in the electoral roll of which he is registered as an elector at the time of his election as such member, by reason of his absence from that constituency in connection with his duties as such member.]

(2) A person who is a patient in any establishment maintained wholly or mainly for the reception and treatment of persons suffering from mental illness or mental defectiveness, or who is detained in prison or other legal custody at any place, shall not by reason thereof be deemed to be ordinarily resident therein.

[11][(3) A member of the armed forces of the Union shall be deemed to be ordinarily resident on any date in the constituency in which, but for his service in the armed forces, he would have been ordinarily resident on that date.]

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7. Ins. by Act 78 of 1950, s. 4.
8. The words "in the same State" ins. by Act 2 of 1956, s. 12, omitted by Act 58 of 1958, s. 6.
9. Subs. by Act 58 of 1958, s. 7, for s. 19.
10. Subs. by s. 8, *ibid.*, for sub-section (1).
11. Subs. by Act 2 of 1956, s. 14, for sub-section (3).

(4) Any person holding any office in India declared[12] by the President in consultation with the Election Commission to be an office to which the provisions of this sub-section apply, or any person who is employed under the Government of India in a post outside India, shall be deemed to be ordinarily resident[13] * * * on any date in the constituency in which, but for the holding of any such office or employment, he would have been ordinarily resident[14] * * * on that date.

(5) The statement of any such person as is referred to in sub-section (3) or sub-section (4) made in the prescribed form and verified in the prescribed manner, that but for his service in the armed forces or but for his holding any such office or being employed in any such post as is referred to in sub-section (4) he would have been ordinarily resident in a specified place[15] * * on any date, shall, in the absence of evidence to the contrary, be conclusive evidence of that fact.

(6) The wife of any such person as is referred to in sub-section (3) or sub-section (4) shall, if she be ordinarily residing with such person[15] * * *, be deemed to be ordinarily resident[16] * * * in the constituency specified by such person under sub-section (5).

[17]* * * * *

[18][**21.** (1) The electoral roll for each constituency shall be prepared in the prescribed manner by reference to the qualifying date and shall come into force immediately upon its final publication in accordance with the rules made under this Act.

Preparation and revision of electoral rolls.

(2) The said electoral roll shall thereafter be revised in every subsequent year in the prescribed manner by reference to the qualifying date.

Provided that if for any reason the electoral roll is not revised in any year the validity or continued operation of the electoral roll shall not thereby be affected.

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12. The following offices have been declared by the President by Notification No. S. O. 959, dated the 18th April, 1960 :—
    1. The President of India.
    2. The Vice-President of India.
    3. Governors of States.
    4. Cabinet Ministers of the Union or of any State.
    5. The Deputy Chairman and Members of the Planning Commission.
    6. Ministers of State of the Union or any State.
    7. Deputy Ministers of the Union or of any State.
    8. The Speaker of the House of the People or of any State Legislative Assembly.
    9. The Chairman of any State Legislative Council.
    10. Lieutenant Governors of Union Territories.
    11. The Deputy Speaker of the House of the People or of any State Legislative Assembly.
    12. The Deputy Chairman of the Council of States or of any State Legislative Council.
    13. Parliamentary Secretaries of the Union or of any State.
13. The words "during any period or" omittee by Act 2 of 1956, s. 14.
14. The words "during that period or" omitted by s. 14, *ibid.*
15. The words "during any period" omitted by s. 14, *ibid.*
16. The words "during that period" omitted by s. 14, *ibid.*
17. Sub-section (7) omitted by s. 14, *ibid.*
18. Subs. by Act 2 of 1956, s. 15, ss. 21 to 25.

(3) Notwithstanding anything contained in sub-section (2), the Election Commission may at any time, for reasons to be recorded, direct a special revision of the electoral roll for any constituency or part of a constituency in such manner as it may think fit.

Provided that subject to the other provisions of this Act, the electoral roll for the constituency, as in force at the time of the issue of any such direction, shall continue to be in force until the completion of the special revision so directed.

Correction of entries in electoral rolls.

[19][**22.** If the electoral registration officer for a constituency, on application made to him or on his own motion, is satisfied after such inquiry as he thinks fit, that any entry in the electoral roll of the constituency—

(*a*) is erroneous or defective in any particular,

(*b*) should be transposed to another place in the roll on the ground that the person concerned has changed his place of ordinary residence within the constituency, or

(*c*) should be deleted on the ground that the person concerned is dead or has ceased to be ordinarily resident in the constituency or is otherwise not entitled to be registered in that roll.

the electoral registration officer shall, subject to such general or special directions, if any, as may be given by the Election Commission in this behalf, amend, transpose or delete the entry.

Provided that before taking any action on any ground under clause (*a*) or clause (*b*) or any action under clause (*c*) on the ground that the person concerned has ceased to be ordinarily resident in the constituency or that he is otherwise not entitled to be registered in the electoral roll of that constituency, the electoral registration officer shall give the person concerned a reasonable opportunity of being heard in respect of the action proposed to be taken in relation to him.]

Inclusion of names in electora rolls.

23. (1) Any person whose name is not included in the electoral roll of a constituency may apply in the manner hereinafter provided for the inclusion of his name in that roll.

(2) Where an application uuder sub-section (1) is made at any time after the issue of a notification calling upon that constituency or the Parliamentary constituency within which that constituency is comprised, to elect a member or members and before the completion of that election, it shall be made to the chief electoral officer ; and in any other case, it shall be made to the electoral registration officer of that constituency.

(3) The chief electoral officer or, as the case may be, the electoral registration officer shall, if satisfied that the applicant is entitled to be registered in the electoral roll, direct his name to be included therein:

Provided that if the applicant is registered in the electoral roll of any other constituency[20] * * *, the chief electoral officer or, as the case may be, the electoral registration officer shall inform the electoral registration officer of that constituency and that officer shall, on receipt of the information, strike off the applicant's name from that electoral roll.

[21]* * * * *

19. Subs. by Act 58 of 1958, s. 9, for s. 22.

20. The words "in the same State" omitted by Act 58 of 1960, s. 8 and Sch. II.

21. Sub-sections (4) and (5) omitted by Act 40 of 1961, s. 2 (w.e. f. 20-9.1961).

Appeals.

[22][**24.** An appeal shall lie within such time and in such manner as may be prescribed—

(*a*) to the chief electoral officer, from any order of the electoral registration officer under section 22 or section 23, and

(*b*) to the Election Commission, from any order of the chief electoral officer under section 23.

Fee for applications and appeals.

25. Every application under section 22 or section 23 and every appeal under section 24 shall be accompanied by the prescribed fee which shall, in no case be refunded.]

PART IV

[23][ELECTORAL ROLLS FOR COUNCIL CONSTITUENCIES]

26. [*Preparation of electoral rolls for Assembly constituencies.*] *Rep. by the Representation of the People (Amendment) Act*, 1956 (2 *of* 1956), *s.* 17.

Preparation of electoral rolls for council constituencies.

27. (1) In this section, "local authorities' constituency", "graduates' constituency" and "teachers' constituency", mean a constituency for the purpose of elections to a Legislative Council under sub-clause (*a*), sub-clause (*b*) and sub-clause (*c*), respectively, of clause (3) of article 171.

[24][(2) For the purpose of elections to the Legislative Council of a State in any local authorities' constituency—

(*a*) the electorate shall consist of members of such local authorites exercising jurisdiction in any place or area within the limits of that constituency as are specified in relation to that State in the Fourth Schedule ;

(*b*) every member of each such local authority within a local authorities' constituency shall be entitled to be registered in the electoral roll for that constituency ;

(*c*) the electoral registration officer for every local authorities' constituency shall maintain in his office in the prescribed manner and form the electoral roll for that constituency corrected up-to-date ;

(*d*) in order to enable the electoral regisration officer to maintain the electoral roll corrected up-to-date, the chief executive officer of every local authority (by whatever designation such officer may be known) shall immediately inform the electoral registration officer about every change in the membership of that local authority ! and the electoral registration officer shall, on receipt of the information, strike off from the electoral roll the names of persons who have ceased to be, and include therein the names of persons who have become, members of that local authority ! and

(*e*) the provisions of sections 15, 16, 18, 22 and 23 shall apply in relation to local authorities' constituencies as they apply in relation to assembly constituencies.]

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22. Ins. by Act 40 of 1961, s. 3(w.e.f. 20-9-1961). Former s. 24, ins. by Act 60 of 1956, s. 2, was omitted by Act 58 of 1958, s. 10.

23 Subs. by Act 2 of 1956, s. 16, for the former heading.

24. Subs. by Act 2 of 1956, s. 18, for sub-section (2).

(3) For the purpose of elections to the Legislative Council of a State in the graduates' constituencies and the teachers' constituencies, the State Government concerned may, with the concurrence of the Election Commisson, by notification in the Official Gazette, specify—

(*a*) the qualifications which shall be deemed to be equivalent to that of a graduate of a university in the territory of India, and

(*b*) the educational institutions within the State not lower in standard than that of a secondary school.

[25][(4) The provision of sections 15, 16, 18, 21, 22 and 23 shall apply in relation to graduates' constituencies and teachers' constituencies as they apply in relation to assembly constituencies,]

(5) Subject to the foregoing provisions of this section,—

[1]* * * *

[2][(*a*)] every person who [3][is] ordinarilly resident in a graduates constituency and has, for at least three years [4][before the qualifying date], been either a graduate of a university in the territory of India or in possession of any of the qualifications specified under clause (*a*) of sub-section (3) by the State Government concerned. shall be entitled to be registered in the electoral roll for that constituency; and

[5][(*b*)] every person who [3][is] ordinarily resident in a teachers' coustituency, and has, within the six years immediately [4][before the qualifying date] for a total period of at least three years, been engaged in teaching in any of the educational institutions specified under clause (*b*) of sub-section (3) by the State Government concerned shall be entitled to be registered in the electoral roll for that constituency.

[6][(6) For the purposes of sub-sections (4) and (5), the qualifying date shall be the 1st day of November of the year in which the preparation or revision of the electoral roll is commenced.]

[7][PART IVA

MANNER OF FILLING SEATS IN THE COUNCIL OF STATES TO BE FILLED BY REPRESENTATIVES OF [8][UNION TERRITORIES]

Constitution of electoral colleges for the filling of seats in the Council of States allotted to Union territories.

27A. (1) For the purpose of filling any seat or seats in the Council of States allotted to any [9][Union territory][10]* * * in the Fourth Schedule to the Constitution there shall be an electoral college for [11][each such territory][12]* * *.

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25. Subs. by *ibid.*, for sub-section (4).
1. Cl. (*a*) omitted by Act 2 of 1956, s. 18.
2. Cl. (*b*) re-lettered as cl. (*a*) by s. 18, *ibid.*
3. Subs. by Act 40 of 1961, s 4, for "on the qualifying date was" (w. e. f. 20-9-1961).
4. Subs. by s. 4, *ibid* , for "before that date" (w, e. f. 20-9-1961).
5. Cl. (*c*) re-lettered as cl. (*b*) by Act 2 of 1956, s. 18.
6. Subs. by Act 40 of 1961, s. 4, for sub-section (6) (w. e. f. 20-9-1961).
7. Part IVA ins. by Act 78 of 1950, s. 8.
8. Subs. by the Adaptation of Laws (No. 2) Order, 1956, for "Part C States".
9. Subs., *ibid.*, for "Part C State".
10. The words "or group of such States" omitted, *ibid.*
11. Subs., *ibid.*, for "each such State".
12. The words "or group of States" and provison omitted by Act 2 of 1956, s. 19.

[13]* * *

(2) The electoral college for each [13][Union territory][14]* * * specified in the first column of the Fifth Schedule shall consist of the number of members specified in the second column thereof opposite to that [13][Union territory][14]* * * to be chosen by direct election.

[15][[16][(3) The electoral college for the Union territory of Delhi shall consist of—

(*a*) the councillors of the Delhi Municipal Corporation ; and

(*b*) ten persons to represent the areas within the New Delhi Municipal Committee and the Delhi Cantonment Board, to be chosen by direct election on the basis of adult suffrage in accordance with rules[17] made by the Central Government in this behalf.]

(4) The electoral college for each of the Union territories of Himachal Pradesh, Manipur and Tripura shall consist of the members of the Territorial Council constituted for that territory under the Territorial Councils Act, 1956, but shall not include any of the members nominated by the Central Government uuder sub-section (3) of section 3 [13][of that Act].

[19]* * * * *

27B. [*Electoral College constituencies.*] *Rep. by the Territorial Councils Act,* 1956 (103 *of* 1956), *s.* 65.

27C. [*Delimitation of Electoral College constituencies.*] *Rep. by s.* 65, ibid.

27D. [*Power to alter or amend orders.*] *Rep. by s.* 65, ibid.

27E. [*Procedure as to orders delimiting constituencies.*] *Rep. by the Representation of the People (Amendment) Act,* 1956 (2 *of* 1956), *s.* 21.

27F. [*Electoral rolls for Council of States constituencies.*] *Rep. by s.* 22, ibid.

Termination of membership of electoral college for certain disqualification.

27G. If a person who is a member of an electoral college becomes subject to any disqualification for membership of Parliament under the provisions of any law relating to corrupt and illegal practices and other offences in connection with elections to Parliament, he shall thereupon cease to be such member of the electoral college.

Manner of filling of seats in the Council of States allotted to Union territories.

27H. [20]* * * The seat or seats in the Council of States allotted to any [21][Union territory][22]* * * in the Fourth Schedule to the Constitution shall be filled by a person or persons elected by the members of the electoral college for [23][that territory][24] * * * in accordance with the system of proportional representation by means of the single transferable vote :

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13. Subs. by the Adaptation of Laws (No. 2) Order, 1956, for "State".
14. The words "or group of States" omitted by Act 49 of 1951, s. 44 and Sch. V.
15. Subs. by Act 108 of 1956, s. 65, for sub-sections (3), (4) and (5).
16. Subs. by Act 66 of 1957, s. 506, for sub-section (3) (w. e. f. 7-4-1958).
17. *See* the Delhi Electoral College (Election of Members) Rules, 1958, in Part V, *infra*.
18. Ins. by Act 66 of 1957, s 506 (w. e. f. 7-4-1958).
19. Sub-section (6) omitted by Act 82 of 1254, s. 7.
20. The words "Save as otherwise provided in section 27 I" omitted by the Adaptation of Laws (No. 2) Order, 1956.
21. Subs., *ibid.*, for "Part C State".
22. The words "or group of such States" omitted, *ibid.*
23. Subs., by the Adaptation of Laws (No. 2) Order, 1956, for "such State".
24. The words "or group of States" omitted by Act 2 of 1956, s. 28.

[25][Provided that the person who immediately before the commencement of the Constitution (Seventh Amendment) Act, 1956, is filling the seat allotted to the Part C States of Manipur and Tripura shall, as from such commencement, be deemed to have been duly elected to fill the seat allotted to the Union territory of Tripura,]

27I. [*Special provisions for the filling of the seats in the Council of States allotted to the States of Ajmer and Coorg and the States of Manipur and Tripura.*] *Rep. by the Adaptation of Laws (No.2) Order*, 1956.

Power of electoral colleges to elect notwithstanding vacancies therein.

27J. No election by the members of an electoral college [1]* * * under this Act shall be called in question on the ground merely of the existence of any vacancy in the membership of such college[2]* * *.

27K. [*Electoral colleges for certain States for which Legislative Assemblies have been constituted.*] *Rep. by the Adaptation of Laws (No.2) Order*, 1956.]

PART V

GENERAL

Power to make rules.

28. (1) The Central Government may, after consulting the Election Commission, by notification in the Official Gazette, make rules[1] for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the particulars to be entered in the electoral rolls ;

(*b*) the preliminary publication of electoral rolls[2]* * * * ;

(*c*) the manner in which and the time within which claims and objections as to entries in electoral rolls may be preferred ;

[3]* * * * *

(*e*) the manner in which notices of claims or objections shall be published ;

(*f*) the place, date and time at which claims or objections shall be heard and the manner in which claims or objections shall be heard and disposed of ;

(*g*) the final publication of electoral rolls ;

[4][(*h*) the revision and correction of electoral rolls and inclusion of names therein ;]

(*i*) any other matter required to be prescribed by this Act.

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25. Ins. by the Adaptation of Laws (No. 2) Order, 1956.

1. The words "or the elected members of the Coorg Legislative Council" omitted by Act 49 of 1951, s. 44 and Sch. V.

2. The words "or Council, as the case may be" omitted by s. 44 and Sch. V, *ibid.*

1. *See* the Registration of Electors Rules, 1960, in Part V, *infra*.

2. The words "in the constituencies to which they relate" omitted by Act 78 of 1950, s. 9.

3. Cl. (*d*) omitted by Act 20 of 1960, s. 8.

4. Subs. by Act 2 of 1956, s. 24, for cl. (*h*).

[5][(3) Every rule made under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree that the rule should be either modified or annulled, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

Staff of local authorities to be made available.

[6][**29.** Every local authority in a State shall, when so requested by the chief electoral officer of the State, make available to any electoral registration officer such staff as may be necessary for the performance of any duties in connection with the preparation and revision of electoral rolls.]

Jurisdiction of civil courts barred.

30. No civil court shall have jurisdiction—

(*a*) to entertain or adjudicate upon any question whether any person is or is not entitled to be registered in an electoral roll for a constituency: or

(*b*) to question the legality of any action taken by or under the authority of an electoral registration officer, or of any decision given by any authority appointed under this Act for the revision of any such roll.

Making false declarations.

[1][[2][**31.** If any person makes in connection with—

(*a*) the preparation, revision or correction of an electoral roll, or

(*b*) the incluson or exclusion of any entry in or from an electoral roll,

a statement or declaration in writing which is false and which he either knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.]

Breach of official duty in connection with the preparation, etc., of electoral rolls.

32. (1) If any electoral registration officer, assistant electoral registration officer or other person required by or under this Act to perform any official duty in connection with the preparation, revision or correction of an electoral roll or the inclusion or exclusion of any entry in or from that roll, is without reasonable cause guilty of any act or omission in breach of such official duty, he shall be punishable with fine which may extend to five hundred rupees.

(2) No suit or other legal proceeding shall lie against any such officer or other person for damages in respect of any such act or omission as aforesaid.

(3) No court shall take cognizance of any offence punishable under sub-section (1) unless there is a complaint made by order of, or under authority from, the Election Commission or the Chief Electoral Officer of the State concerned.]

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5. Subs. by Act 40 of 1961, s. 5, for sub-section (3) (w. e. f. 20-9-1961), which was ins. by Act 2 of 1956, s. 24.

6. Subs. by Act 2 of 1956, s. 25, for s. 29.

1. Ins. by Act 58 of 1958, s. 11.

2. Subs. by Act 20 of 1960, s. 4, for s. 31.

THE FIRST SCHEDULE

(*See* section 3)

[1]* * * * * *

[2][3] * *

Allocation of seats in the House of the People [4]* * *

Name of State, Union territory or area	Total number of seats
1. Andhra Pradesh	43
2. Assam	12
3. Bihar	53
[7][4. Gujarat	22]
5. Kerala	18
6. Madhya Pradesh	36
7. Madras	41
[1][8. Maharashtra	44]
[2][9]. Mysore	26
[2][10]. Orissa	20
[2][11]. Punjab	22
[2][12]. Rajasthan	22
[2][13] Uttar Pradesh	86
[2][14] West Bengal	36
[2][15]. Jammu and Kashmir	6
[3][16]. Nagaland	1
[2][17]. Delhi	5
[2][18]. Himachal Pradesh	4
[2][19]. Manipur	2
[2][20] Tripura	2
[2][21]. Andaman and Nicobar Islands ...	1
[2][22]. Laccadive, Minicoy and Amindivi Islands ...	1
[4][23]. Dadra and Nagar Haveli	1]
[5][24]. Goa, Daman and Diu ...	2
[6][25]. North East Frontier Tract ...	1
Total	506]

8. Part I relating to allocation of seats in the House of the People as first constitued under the Constitution, omitted by Act 58 of 1958, s. 12.

4. Ins. by the Adaptation of Laws (No. 2) Order, 1956.

5. The word and figures "Part II" omitted by Act 58 of 1958, s. 12.

6. The words "*as subsequently constituted*" omitted by s. 12, *ibid.*

7. Subs. by Act 11 of 1960, s. 10, for entry 4 relating to Bombay (w. e. f. 1-5-1960).

1. Ins. by Act 11 of 1960, s. 10 (w. e. f. 1-5-1960).

2. The entries 8 to 22 re-numbered as entries 9 to 28 respectively by s. 10, *ibid.* (w. e. f. 1-5-1960).

3. Ins. by s. 9 of the State of Nagaland Act, 1962.

4. Ins. by Act 35 of 1961, s. 3 (w. e. f. 11-8-1961).

5. Ins. by the Goa, Daman & Diu (Administration) Act, 1962.

6. Subs. by Act 42 of 1957, s. 5, for the entry "21 Part B Tribal Areas.....I" (w. e. f. 1-12-1957).

THE SECOND SCHEDULE

(*See* section 7)

Total number of seats in the Legislative Assemblies

[1][Name of State	[2]*	*	*	*	[3]*	* Total number of seats in the Legislative Assembly
1	[2]*	*	*	*	*	[4][2]
1. Andhra Pradesh ...	[2]*	*	*			[5][300]
2. Assam ...	*	*	*			[6][105]
3 Bihar ...	*	*	*			318
[7][4. Gujarat ...	..					132*]
5. Kerala ...	*	*	*			126
6. Madhya Pradesh ...	[2]*	*	*			288
7. Madras ...	[2]*	*	*			[8][206]
[9][8. Maharashtra ...		...	...			264]
[10][9] Mysore ...	[2]*	*	*			208
[10][10]. Orissa ...	[2]*	*	*			140
[10][11] Punjab ...	[2]*	*	*			154
[10][12]. Rajasthan ...	[2]*	*	*			176
[10][13]. Uttar Pradesh ...	[2]*	*	*			430
[10][14]. West Bengal ...	[2]*	*	*			252

1. Subs. by the Adaptation of Laws (No, 2) Order, 1956, for the original Table.
2. The words and figures "As constituted on the Ist November, 1956" and the whole of column 2, omitted by Act 58 of 1958, s. 18,
3. The words "As subsequently constituted or partially reconstituted" omitted by s. 13, *ibid.*
4. Column 3 re-numbered as column 2 by s. 18, *ibid.*
5. Subs. by Act 56 of 1959, s. 12, for "301" (w. e. f. 1-4-1960).
6. Subs. by Act 42 of 1957, s. 5, for "108" (w. e. f. 1-12-1957).
7. Subs. by Act 11 of 1960, s. 18, for entry 4 relating to Bombay (w. e. f. 1-5 1960).
8. Subs. by Act 56 of 1959, s. 12, for "205" (w. e. f. 1-4-1960).
9. Ins. by Act 11 of 1960, s. 18 (w. e. f. 1-5-1960).
10. Entries 8 to 18 re-numbered as entries 9 to 14 respectively by s. 18, *ibid.*(w. e. f. 1-5-1960).

*As from the date of expiration of the duration of the Legislative Assembly of Gujarat under section 16 of the Bombay Reorganisation Act, 1960 (11 of 1960) or on its dissolution the total number of seats shall be increased from 132 to 154. *See* s. 19 of the Bombay Reorganisation Act, 1960 (11 of 1960), *infra*.

[1][THE THIRD SCHDULE

(*See* section 10)

Allocation of seats in the Legislative Councils

Name of State	Total number of seats	Number to be elected or nominated under article 171 (3)				
		Sub-clause (*a*)	Sub-clause (*b*)	Sub-clause (*c*)	Sub-clause (*d*)	Sub-clause (*e*)
1	2	3	4	5	6	7
1. Andhra Pradesh	90	31	8	8	31	12
2. Bihar	96	34	8	8	34	12
[2]* * *						
[2][3]. Madhya Pradesh	90	31	8	8	31	12
[2][5]. Madras	63	21	6	6	21	9
[5 Maharashtra	78	22	7	7	30	12
6. Mysore	63	21	6	6	21	9
7. Punjab	51	17	4	4	18	8
8. Uttar Pradesh	108	39	9	9	39	12
9. West Bengal	75	27	6	6	27	9]

THE FOURTH SCHEDULE

[*See* section 27 (2)]

Local authorities for purposes of elections to Legislative Councils

[4][ANDHRA PRADESH

1. Municipalities.
[5] [2. Zilla Parishads].
3. Cantonment Boards.
4. City and Town Committees.

1. Subs. by Act 87 of 1957, s. 12, for Sch. III.
2. Entry No. 8 relating to Bombay omitted and entries 4 and 5 re-numbered as entries 8 and 4 respectively by Act 11 of 1960, s. 21 (w. e. f. 1-5-1960).
3. Ins. by s, 21, *ibid* (w. e. f. 1-5-1960).
4. Ins. by Act 87 of 1957, s. 12.
5. Subs. by Act 20 of 1960, s. 5, for "2. District Boards"

BIHAR

1. Municipalities.
2. District Boards.
3. Cantonment Boards.
4. Notified Area Committees.
5. Zilla Parishads.[1]
6. Panchayat Samithis.[1a]

[2]*

[3][MADHYA PRADESH

[4][1. Municipalities.
2. Janapada Sabhas.
3. Mandal Panchayats.
4. Cantonment Boards.
5. Notified Area Committees.
6. Town Area Committees.]

MADRAS

1. Municipalities.
[5][2. Panchayat Union Councils.]
3. Cantonment Boards.

"4. *Town Panchayats notified under the Madras Panchayats Act, 1958 (Madras Act XXXV of 1958), that is to say, Panchayats having a population estimated at not less than five thousand and an annual income estimated at not less than ten thousand rupees*" ;[6]

[1][MAHARASHTRA

"1. *Municipal Committees.*
2. *Cantonment Boards.*
3. *Town Committees.*
4. *Zilla Parishads.*" ; *1a*

[2][MYSORE

1. Municipalities.
[3][2. Taluk Development Boards.]
3. Cantonment Boards.]
[4][4. Notified Area Committees.
[5]* * *]

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1. Inserted by *ibid.*

1a. Substituted for entries 5 & 6 by Act 2 of 1968.

2. The heading "Bombay" (that is, Maharashtra) and the entries under that heading omitted by Act 40 of 1961, s. 6 (w. e. f. 20-9-1961).

3. Ins. by the Adaptation of Laws (No 2) Order, 1956.

4. Subs. by Act 87 of 1957, s. 12, for the former entries.

5. Subs. by Act 40 of 1961, s. 6, for "2. District Boards" (w. e. f. 20-9.1961).

6. Subs. by Act 2 of 1968,

1. Ins. by Act 40 of 1961, s. 6 (w. e. f. 20-9-1961).

1a. Subs. by Act 2 of 1968.

2. Ins. by the Adaptation of Laws (No. 2) Order, 1956.

3. Subs. by Act 40 of 1961, s. 6, for "2. District Boards and District Local Boards" (w. e. f. 20-9-1961).

4. Ins. by Act 87 of 1957, s. 12.

5. The entry "5. Village Panchayats with a population of not less than five thousand" omitted by Act 40 of 1961, s. 6 (w. e. f. 20-9-1961).

PUNJAB

1. Municipalities.
[6][2. Panchayat Samitis.]
3. Cantonment Boards.
[7]* * *
5. Notified Area Committees.

UTTAR PRADESH

1. Municipalities.
[8][2. Zilla Parishads including Antarim Zilla Parishads.]
3. Cantonment Boards.
4. Town Area Committees.
5. Notified Area Committees.
6. Kshethea Samitis.[9]

WEST BENGAL

1. Municipalities.
2. District Boards.
3. Cantonment Boards.
4. Local Boards.
[1]* * * * *

[2][THE FIFITH SCHEDULE

3[*See* section 27A (2)]]

Number of members of electoral colleges

Name of Union territory	Number of members
1. Delhi	[4][90
2. Himachal Pradesh	41
3. Manipur	30
4. Tripura	30]

4[*THE SIXTH SCHEDULE.*] *Rep. by the Representation of the People (Amendment) Act*, 1956(2 *of* 1956), *s.* 27.

5[*THE SEVENTH SCHEDULE.*] *Rep. by s.* 27, ibid.

6. Subs. by. s. 6, *ibid*, for "2. District Board" (w. e. f. 20-9-1961).
7. Item "4. Small Town Committees" omitted by Act 2 of 1956, s. 26.
8. Subs. by Act 20 of 1961, s. 5, for "2. District Boards" (w. e. f. 1-2-1960).
9. Added by Act 2 of 1968.
1. Entries relating to Mysore omitted by the Adaptation of Laws (No. 2) Order, 1956.
1a. Substituted by Act 2 of 1968.
2. Subs., *ibid.*, for Sch. V.
3. Subs. by Act 58 of 1960, s. 8 and Sch. II, for "[*See* sections 27A (2), 27D and 27O]."
4. Subs. by Act 66 of 1957, s. 506, for "48" (w. e.f. 7-4-1958).
5. Ins. by Act 27 of 1951, s. 8,

VIII. ARTICLE 82.

THE DELIMITATION COMMISSION ACT, 1962

(No. 61 OF 1962)

19th December, 1962

An Act to provide for the readjustment of the allocation of seats in the House of the People to the States, the total number of seats in the Legislative Assembly of each State; the division of each State into territorial constituencies for elections to the House of the People and Legislative Assemblies of the States and for matters connected therewith.

BE it enacted by Parliament in the Thirteenth Year of the Republic of India as follows ;—

Short title.

1. This Act may be called the Delimitation Commission Act, 1962.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "article" means an article of the Constitution ;

(*b*) "associate member" means a member nominated under section 5 ;

(*c*) "Commission" means the Delimitation Commission constituted under section 3 ;

(*d*) "latest census figures" means the census figures as ascertained at the census held in 1961 ;

(*e*) "member" means a member of the Commission and includes the Chairman ;

(*f*) "State" does not include the State of Jammu and Kashmir and the State of Nagaland.

Constitution of Delimitation Commission.

3. (1) As soon as may be after the commencement of this Act, the Central Government shall constitute a Commission to be called the Delimitation Commission which shall consist of three members as follows :—

(*a*) two members, each of whom shall be a person who is or has been a Judge of the Supreme Court or of a High Court, to be appointed by the Central Government, and

(*b*) the Chief Election Commissioner, *ex officio*.

(2) The Central Government shall nominate one of the members appointed under clause (*a*) of sub-section (1) to be the Chairman of the Commission.

Duties of the Commission.

4. It shall be the duty of the Commission to readjust on the basis of the latest census figures the allocation of seats in House of the People to the several States, the total number of seats in the Legislative Assembly of each State and the division of each State into territorial constituencies for the purpose of elections to the House of the People and to the State Legislative Assembly.

Associate members.

5. (1) The Commission shall associate with itself for the purpose of assisting it in its duties in respect of each State, nine persons four of whom shall be members of the House of the People representing that State and five shall be members of the Legislative Assembly of that State.

(2) The persons to be so associated from each State shall be nominated, in the case of members of the House of the People, by the Speaker of that House, and in the case of members of a Legislative Assembly, by the Speaker of that Assembly, having due regard to the composition of the House or, as the case may be, of the Assembly.

(3) The first nominations to be made under sub-section (2)—

(*a*) shall be made by the Speakers of the several Legislative Assemblies within one month, and by the Speaker of the House of the People within two months, of the commencement of this Act, and

(*b*) shall be communicated to the Chief Election Commissioner, and where the nominations are made by the Speaker of a Legislative Assembly, also to the Speaker of the House of the People.

(4) None of the associate members shall have a right to vote or to sign any decision of the Commission.

Casual vacancies.

6. If owing to death or resignation the office of the Chairman or of a member or of an associate member falls vacant, it shall be filled as soon as may be practicable by the Central Government or the speaker concerned under and in accordance with the provisions of section 3 or, as the case may be, of section 5.

Procedure and powers of the Commission.

7. (1) The Commission shall determine its procedure and shall in the performance of its functions have all the powers of a civil court under the Code of Civil Procedure, 5 of 1908, while trying a suit, in respect of following matters, namely :—

(*a*) summoning and enforcing the attendance of witnesses ;

(*b*) requiring the production of any document ; and

(*c*) requisitioning any public record from any court or office.

(2) The Commission shall have power to require any person to furnish any information on such points or matters as in the opinion of the Commission may be useful for, or relevant to, any matter under the consideration of the Commission.

(3) The Commission may authorise any of its members to exercise any of the powers conferred on it by clauses (*a*) to (*c*) of sub-section (1) and sub-section (2), and any order made or act done in exercise of any of those powers by the member authorised by the Commission in that behalf shall be deemed to be the order or act, as the case may be, of the Commission.

(4) If there is a difference of opinion among the members, the opinion of the majority shall prevail, and acts and orders of the Commission shall be expressed in terms of the views of the majority.

(5) The Commission as well as any group of associate members shall have power to act notwithstanding the temporary absence of a member or associate member or the existence of a vacancy in the Commission or in that or any other group of associate members ; and no act or proceeding of the Commission or of any group of associate members shall be invalid or called in question on the ground merely of such temporary absence or of the existence of such vacancy.

(6) The Commission shall be deemed to be a civil court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 5 of 1898.

Explanation :—For the purposes of enforcing the attendance of witnesses the local limits of the jurisdiction of the Commission shall be the limits of the territory of India.

Readjustment of number of seats.

8. The Commission shall, on the basis of the latest census figures and having regard to the provisions of articles 81, 170, 330 and 332, by order determine—

(*a*) the number of seats in the House of the People to be allocated to each State and the number of seats, if any, to be reserved for the Scheduled Castes and for the Scheduled Tribes of the State ; and

(*b*) the total number of seats to be assigned to the Legislative Assembly of each State and the number of seats, if any, to be reserved for the Scheduled Castes and for the Scheduled Tribes of the State :

Provided that the total number of seats assigned to the Legislative Assembly of any State under clause (*b*) shall be an integral multiple of the number of seats in the House of the People allocated to that State under clause (*a*).

Delimitation of constituencies.

9. (1) The Commission shall, in the manner herein provided, then distribute the seats in the House of the allocated to each State and the seats assigned to the Legislative Assembly of each State to single-member territorial constituencies and delimit them on the basis of the latest census figures, having regard to the provisions of the Constitution and to the following provisions, namely :—

(*a*) all constituencies shall, as far as practicable, be geographically compact areas, and in delimiting them regard shall be had to physical features, existing boundaries of administrative units, facilities of communication and public convenience ;

(*b*) every assembly constituency shall be so delimited as to fall wholly within one parliamentary constituency ;

(*c*) constituencies in which seats are reserved for the Scheduled Castes shall be distributed in different parts of the State and located, as far as practicable, in those areas where the proportion of their population to the total is comparatively large ; and

(*d*) constituencies in which seats are reserved for the Scheduled Tribes shall, as far as practicable, be located in areas where the proportion of their population to the total is the largest.

(2) The Commission shall—

(*a*) publish its proposals for the delimitation of constituencies, together with the dissenting proposals, if any, of an associate member who desires publication thereof, in the Gazette of India and official Gazettes of all the States concerned and also in such other manner as it thinks fit ;

(*b*) specify a date on or after which the proposals will be further considered by it ;

(*c*) consider all objections and suggestions which may have been received by it before the date so specified, and for the purpose of such consideration, hold one or more public sittings at such place or places in each State as it thinks fit ; and

(*d*) thereafter by one or more orders determine—

(*i*) the delimitation of parliamentary constituencies, and

(*ii*) the delimitation of assembly constituencies, of each State.

Publication of orders and their date of operation.

10. (1) The Commission shall cause of each its orders made under section 8 or section 9 to be published in the Gazette of India and in the Official Gazettes of the States concerned.

(2) Upon publication in the Gazette of India, every such order shall have the force of law and shall not be called in question in any court.

(3) As soon as may be after such publication, every such order shall be laid before the House of the People and the Legislative Assemblies of the States concerned.

(4) Subject to the provisions of sub-section (5), the readjustment of representation of the several territorial constituencies in the House of the People or in the Legislative Assembly of a State and the delimitation of those constituencies provided for in any such order shall apply in relation to every election to the House to the Assembly, as the case may be, held after the publication in the Gazette of India of that order and shall so apply in supersession of the provisions relating to such representation and delimitation contained in the Representation of the People Act, 43 of 1950, and the Delimitation of Parliamentary and Assembly Constituencies Order, 1961.

(5) Nothing in this section shall affect the representation in the House of the People or in the Legislative Assembly of a State until the dissolution of the House or of the Assembly, as the case may be, existing on the date of publication in the Gazette of India of the final order or orders of the Commission relating to the delimitation of Parliamentary constituencies or, as the case may be, of the Assembly constituencies of that State.

Power to maintain delimitation orders up-to-date.

11. (1) The Election Commission may, from time to time, by notification in the Gazette of India and in the Official Gazette of the State concerned,—

(*a*) correct any printing mistake in any of the orders made by the Delimitation Commission under section 9 or any error arising therein from an inadvertent slip or omission ; and

(*b*) where the boundaries or name of any district or any territorial division mentioned in any of the said orders are or is altered, make such amendments as appear to it to be necessary or expedient for bringing the orders up-to-date.

(2) Every notification under this section shall be laid, as soon as may be after it is issued, before the House of the People and the Legislative Assembly of the State concerned.

IX. ARTICLES 83, 84, 101, 102, 172, 173, 191.

1. THE REPRESENTATION OF THE PEOPLE ACT, 1951

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140. [*Repealed.*]
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THE REPRESNTATION OF THE PEOPLE ACT, 1951

(43 OF 1951)

An Act to provide for the conduct of elections to the Houses of Parliament and to the House or Houses of the Legislature of each State, the qualifications and disqualifications for membership of those Houses, the corrupt [1]*** practices and other offences at or in connection with such elections and the decision of doubts and disputes arising out of or in connection with such elections.

[17th July, 1951]

BE it enacted by Parliament as follows:—

PART I

PRELIMINARY

Short title.

1. This Act may be called the Representation of the People Act, 1951.

Interpretation.

2. (1) In this Act, unless the context otherwise requires,—

(*a*) each of the expressions defined in section 2 or sub-section (1) of section 27 of the Representation of the People Act, 1950 (43 of 1950), but not defined in this Act, shall have the same meaning as in that Act ;

1. The words "and illegal" omitted by Act 27 of 1956, s. 2.

(*b*) "appropriate authority" means, in relation to an election to the House of the People or the Council of States[2] * * *, the Central Government, and in relation to an election to the Legislative Assembly or the Legislative Council of a State, the State Government ;

[3][(*bb*) "chief electoral officer" means the officer appointed under section 13A of the Representation of the People Act, 1950 (43 of 1950) ;]

(*c*) "corrupt practice" means any of the practices specified in section 123 [4]*** ;

(*d*) "election" means an election to fill a seat or seats in either House of Parliament or in the House or either House of the Legislature of a State other than the State of Jammu and Kashmir [5]*** ;

[1][(*e*) "elector" in relation to a constituency means a person whose name is entered in the electoral roll of that constituency for the time being in force and who is not subject to any of the disqualifications mentioned in section 16 of the Representiion of the People Act, 1950 (43 of 1950) ;]

[2]* * * *

(*g*) "prescribed" means prescribed by rules made under this Act ;

[2]* * * *

[3]* * * *

[4][(*i*)] "sign" in relation to a person who is unable to write his name means authenticate in such manner as may be prescribed ;

[5]* * *

[4][(*k*)] "Tribunal" means a tribunal appointed by the Election Commission under section 86.

(2) For the purposes of this Act, [6]* * * a Parliamentary constituency, an Assembly constituency, a Council constituency, a local authorities' constituency, a graduates' constituency and a teachers' constituency shall each be treated as a constituency of a different class.

(3) Any requirement under this Act that a notification, order, rule, declaration, notice or list issued or made by any authority shall be published in the Official Gazette, shall, unless otherwise expressly provided in this Act, be construed as a requirement that the notification, order, rule, declaration, notice or list shall—

(*a*) where it is issued or made by the Central Government, be published in the Gazette of India ;

(*b*) where it is issued or made by a State Government, be published in the Official Gazette of the State ; and

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2. Certain words omitted by Act 108 of 1956, s. 66.
3. Ins. by Act 27 of 1956, s. 8.
4. The words and figures "or section 124" omitted by s. 8, *ibid.*
5. The words "or in the electoral college of a Union territory" omitted by Act 58 of 1958, s. 14.
1. Subs. by Act 27 of 1956, s. 8, for cl. (*e*).
2. Cls. (*f*), (*h*) and (*i*) omitted by s. 8, *ibid.*
2. Cl. (*j*) re-lettered as cl. (*h*) by s. 8, *ibid.*, omitted by the Adaptation of Laws (No. 2) Order, 1956.
4. Cls. (*k*) and (*l*) re-lettered as cls. (*i*) and (*k*) by Act 27 of 1956, s. 8.
5. Cl. (*j*) ins. by s. 8, *ibid.*, omitted by the Adaptation of Laws (No. 2) Order, 1956.
6. Certain words omitted by Act 108 of 1956, s. 66.

(*c*) where it is issued or made by any other authority, be published in the Gazette of India if it relates to an election to, or membership of, either House of Parliament [6]* * * and in the Official Gazette of the State if it relates to an election to, or membership of, the House or either House of the Legislature of a State.

(4) Where, under any of the provisions of this Act, anything is to be prescribed, different provisions may be made for different cases or classes of cases.

[1]* * *

[1][(5)] Any reference in this Act to a High Court or to the Judge of a High Court shall, in relation to a [2][Union territory] having a Court of the Judicial Commissioner, be construed as a reference to the said Court of the Judicial Commissioner or to the Judicial Commissioner or any Additional Judicial Commissioner, as the case may be.

[1]* * * * *

PART II

QUALIFICATIONS AND DISQUALIFICATIONS FOR MEMBERSHIP

CHAPTER I.—*Qualifications for Membership of Parliament*

Qualification for membership of the Council of States.

[3][3. A person shall not be qualified to be chosen as a representative of any State (other than the State of Jammu and Kashmir) or Union territory in the Council of States unless he is an elector for a Parliamentary constituency in that State or territory.]

Qualifications for membership of the House of the People.

4. A person shall not be qualified to be chosen to fill a seat in the House of the People other than a seat allotted to the State of Jammu and Kashmir [4][, to the Andaman and Nicobar Islands, [5][to the Laccadive, Minicoy and Amindivi Islands] [6][, to Dadra and Nagar Haveli] or to the Part B tribal areas], unless—

(*a*) in the case of a seat reserved for the Scheduled Castes in any State, he is a member of any of the Scheduled Castes, whether of that State or of any other State, and is an elector for any Parliamentary Constituency ;

(*b*) in the case of a seat reserved for the Scheduled Tribes any State(other than those in the antonomous districts of Assam), he is a member of any of the Scheduled Tribes, whether of that State or of any other State (excluding the tribal areas of Assam), and is an elector fo any Parliamentary constituency ;

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1. Sub-sections (5) and (7) omitted, and sub-section (6) re-numbered as sub-section (5) by Act 27 of 1956, s. 8.
2. Subs. by the Adaptation of Laws, (No. 2) Order, 1956, for "Part C. State".
3. Subs., *ibid.*, for s. 3.
4. Subs. by Act 67 of 1951, s. 8, for "or to the Andaman and Nicobar Islands".
5. Ins. by the Adaptation of Laws (No. 2) Order, 1956.
6. Ins. by Act 85 of 1961, s. 3 (w. e. f. 11-8-1961).

(*c*) in the case of a seat reserved for the Scheduled Tribes in the autonomous districts of Assam, he is a member of any of those Scheduled Tribes and is an elector for the Parliamentary constituency in which such seat is reserved or for any other Parliamentary constituency comprising any such autonomous district ; and

(*d*) in the case of any other seat, he is an elector for an Parliamentary constituency.

CHAPTER II.—*Qualifications for Membershtp of State Legislatures*

Qualifications for membership of a Legislative Assembly.

5. A person shall not be qualified to be chosen to fill a seat in the Legislative Assembly of a State unless—

(*a*) in the case of a seat reserved for the Scheduled Castes or for the Scheduled Tribes of that State, he is a member of any of those castes or of those tribes, as the case may be, and is an elector for any Assembly constituency in that State ;

(*b*) in the case of a seat reserved for an autonomous district of Assam, other than a seat the constituency for which comprises the cantonment and municipality of Shillong he is a member of a Scheduled Tribe of that district and is an elector for the Assembly constituency in which such seat or any other seat is reserved for that district ; and

(*c*) in the case of any other seat, he is an elector for any Assembly constituency in that State.

Qualifications for membership of a Legislative Council.

6. (1) A person shall not be qualified to be chosen to fill a seat in the Legislative Council of a State to be filled by election unless he is an elector for any Assembly constituency in that State.

(2) A person shall not be qualified to be chosen to fill a seat in the Legislative Council of a State to be filled by nomination by the Governor [1]* * * unless he is ordinarily resident in the State.

CHAPTER III.—*Disqualifications*

Disqualifications for membership for Parliament or of a State Legislature.

7. A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State—

(*a*) if, whether before or after the commencement of the Constitution, he has been convicted, or has, in proceedings for questioning the validity or regularity of an election, been found to have been guilty, of any offence or corrupt [1]*** practice which has been declared by section 139 or section 140 to be an offence or practice entailing disqualification for membership of Parliament and of the Legislature of every State, unless such period has elapsed as has been provided in that behalf in the said section 139 or section 140, as the case may be [2][or the Election Commission has removed the disqualification] ;

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1. The words "or the Rajpramukh, as the case may be" omitted by the Adaptation of Laws (No. 2) Order, 1956.

1. The words "or illegal" omitted by Act 27 of 1956, s. 4.

2. Ins. by s. 4, *ibid.*

(*b*) if, whether before or after the commencement of the Constitution, he has been convicted by a Court in India of any offence and sentenced[3] * * * to imprisonment for not less than two years, unless a period of five years, or such less a period as the Election Commission may allow in any particular case, has elapsed since his release ;

[(*c*) if he has failed to lodge an account of his election expenses within the time and in the manner required by or under this Act, unless three years have elapsed from the date by which the account ought to have been lodged or the Election Commission has removed the disqualification ;]

[(*d*) if there subsists a contract entered into in the course of his trade or business by him with the appropriate Government for the supply of goods to, or for the execution of any works undertaken by, that Government ;]

(*e*) if he is a director, [6][managing agent, manager of secretary of], [7][any company or corporation (other than a co-operative society) in the capital of which the appropriate Government has not less than twenty-five per cent. share] ;

(*f*) if, having held any office under the Government of India or the Government of any State or under the Crown in India or under the Government of an Indian State, he has, whether before or after the commencement of the Constitution, been dismissed for corruption or disloyalty to the State, unless a period of five years has elapsed since his dismissal.

Savings.

8. (1) Notwithstanding anything in section 7—

(*a*) a disqualification under clause (*a*) or clause (*b*) of that section shall not, in the case of a person who becomes so disqualified by virtue of a conviction or a conviction and a sentence and is at the date of the disqualification a member of Parliament or of the Legislature of a State, take effect until three months have elapsed form the date of such disqualification, or if within these three months an appeal or petition for revision is brought in respect of the conviction or the sentence, until that appeal or petition is disposed of ;

[1][(*b*) a disqualification under clause (*c*) of that section shall not take effect until the expiration of two months from the date on which the Election Commission has decided that the account of election expenses has not been lodged within the time and in the manner required by or under this Act ;]

[2]* * * * *

(*e*) a person shall not be disqualified under clause (*e*) of that section by reason of his being a director unless the office of such director is declared by Parliament by law to so disqualify its holder ;

(*f*) a disqualification under clause (*e*) of that section shall not, in the case of a director, take effect where the law making any such declaration as

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3. The words "to transportation or" omitted by s. 4, *ibid.*

4. Subs. by s. 4, *ibid.*, for cl. (*c*).

5. Subs. by Act 58 of 1958, s. 15, for cl. (*d*).

6. Subs. by s. 15, *ibid*, for "or managing agent of, or holds any office of profit under".

7. Subs. by Act 88 of 1956, s. 8, for "any corporation in which the appropriate Government has any share or financial interest".

1. Subs. by Act 27 of 1956, s. 5, for cl. (*b*).

2. Cls. (*c*) and (*d*) omitted by Act 58 of 1958, s. 16.

is referred to in clause (*e*) of this section in respect of the office of such director has come into force after the director has been chosen a member of Parliament or of the Legislature of a State, as the case may be, until the expiration of six months after the date on which such law comes into force or of such longer period as the Election Commission may in any particular case allow ;

[1]* * * * *

[2]* * * * *

Interpretation, etc.

9. (1) In this Chapter—

(*a*) "appropriate Government" means in relation to any disqualification for being chosen as or for being a member of either House of Parliament, the Central Government, and in relation to any disqualification for being chosen as or for being a member of the Legislative Assembly or Legislative Council of a State, the State Government ;

[3]* * * * *

[4]* * * * *

(3) If any question is raised as to whether a person who, having held any office referred to in clause (*f*) of section 7, has been dismissed, is disqualified under that clause for being chosen as a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State, the production of a certificate issued in the prescribed manner by the Election Commission to the effect that such person has not been dismissed for corruption or disloyalty to the State shall be conclusive proof that he is not disqualified under that clause.

CHAPTER IV.—*Qualification and Disqualification for Membership of Electoral Colleges*

10. [*Qualification for membership of electoral colleges for certain Union territories.*] *Rep. by the Territorial Councils Act*, 1956 (103 *of* 1956), *s.* 66.

11. [*Disqualification for membership of electoral colleges for certain Union territories.*] *Rep. by s.* 66, ibid.

[5]PART III

NOTIFICATION OF GENERAL ELECTIONS

Notification for biennial election to the Council of States.

12. For the purpose of filling the seats of members of the Council of States retiring on the expiration of their term of office the President shall, by one or more notifications published in the Gazette of India on such date or dates as may be recommended by the Election Commission, call upon the elected members of the Legislative Assembly or, as the case may be, the members of the electoral college, of each State concerned to elect members in accordance with the provisions of this Act and of the rules and orders made thereunder:

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1. Cl. (*g*) omitted by Act 27 1956, s. 5.
2. Sub-section (2) omitted by Act 58 of 1958, s. 16.
3. Cl. (*b*) omitted by s. 17, *ibid.*
4. Sub-section (2) omitted by s. 17, *ibid.*
5. Subs. by Act 27 of 1956, s. 7, for Part III (ss. 12 to 18).

Provided that no notification under this section shall be issued more than three months prior to the date on which the term of office of the retiring members is due to expire.

13. [*Notification for reconstitution of electoral colleges for certain Union territories.*] *Rep. by the Territorial Councils Act*, 1956 (103 *of* 1956), *s.* 66.

Notification for general election to the House of the People.

14. (1) A general election shall be held for the purpose of constituting a new House of the People on the expiration of the duration of the existing House or on its dissolution.

(2) For the said purpose the President shall, by one or more notifications published in the Gazette of India on such date or dates as may be recommended by the Election Commission, call upon all parliamentary constituencies to elect members in accordance with the provisions of this Act and of the rules and orders made thereunder:

Provided that where a general election is held otherwise than on the dissolution of the existing House of the People, no such notification shall be issued at any time earlier than six months prior to the date on which the duration of that House would expire under the provisions of clause (2) of Article 83.

Notification for general election to a State Legislative Assembly.

15. (1) A general election shall be held for the purpose of constituting a new Legislative Assembly on the expiration of the duration of the existing Assembly or on its dissolution.

(2) For the said purpose, the Governor [1]*** shall, by one or more notifications published in the Official Gazette of the State on such date or dates as may be recommended by the Election Commission, call upon all Assembly constituencies in the State to elect members in accordance with the provisions of this Act and of the rules and orders made thereunder:

Provided that where a general election is held otherwise than on the dissolution of the existing Legislative Assembly, no such notification shall be issued at any time earlier than six months prior to the date on which the duration of that Assembly would expire under the provisions of clause (1) of Article 172 [1]* * *

[2][**15A.** For the purpose of constituting the Legislative Council of the State of Madhya Pradesh under the States Reorganisation Act, 1956 (37 of 1956) and constituting the Legislative Council of the State of Andhra Pradesh under the Legislative Councils Act, 1957 (37 of 1957), the Governor of each of the aforesaid States shall by one or more notifications published in the Official Gazette of the State on such date or dates as may be recommended by the Election Commission call upon the members of the Legislative Assembly of the State and all the council constituencies to elect members in accordance with the provisions of this act and of the rules and orders made thereunder.]

Notification for certain elections to Legislative Councils.

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1. The words, "Rajpramukh, Lieutenant-Governor or Chief Commissioner, as the case may be," omitted by the Adaptation of Laws (No. 2) Order, 1956.

1. The words "or under the provisions of section 5 of the Government of Part C State Act, 1951 (49 of 1951), as the case may be" omitted by the Adaptation of Laws (No. 27) Order, 1956.

2. Ins. by Act 37 of 1957, s. 18.

16. For the purpose of filling the seats of members of the Legislative Council of a State retiring on the expiration of their term of office, the Governor [3]* * * shall, by one or more notifications published in the Official Gazette of the State on such date or dates as may be recommended by the Election Commission, call upon the members of the Legislative Assembly of the State and all the Council constituencies concerned to elect members in accordance with the provisions of this Act and of the rules and orders made thereunder :

Notification for biennial election to a State Legislative Council.

Provided that no notification under this section shall be issued more than three months prior to the date on which the term of office of the retiring members is due to expire.]

PART IV

ADMINISTRATIVE MACHINERY FOR THE CONDUCT OF ELECTIONS

19. In this Part and in Part V, unless the context otherwise requires, "constituency" means [4]* * * a Parliamentary constituency or an Assembly constituency or a Council constituency.

Definition.

[5][**20.** Subject to the superintendence, direction and control of the Election Commission, the chief electoral officer of each State shall supervise the conduct of all elections in the State under this Act.

General duties of chief electoral officers.

21. For every constituency, for every election to fill a seat or seats in the Council of States and for every election by the members of the Legislative Assembly of a State to fill a seat or seats in the Legislative Council of the State, the Election Commission shall, in consultation with the Government of the State, designate or nominate a returning officer who shall be an officer of Government:

Returning officers.

Provided that nothing in this section shall prevent the Election Commission from designating or nominating the same person to be the returning officer for more than one constituency.]

22. (1) The Election Commission may appoint one or more persons to assist any returning officer in the performance of his functions:

Assistant returning officers.

Provided that every such person shall be an officer of Government.

(2) Every assistant returning officer shall, subject to the control of the returning officer, be competent to perform all or any of the functions of the returning officer:

Provided that no assistant returning officer shall perform any of the functions of the returning officer which relate [1]* * * to the scrutiny of nominations[2] * * * unless the returning officer is unavoidably prevented from performing the said function.

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3. The words "or Rajpramukh, as the case may be," omitted by the Adaptation of Laws (No. 2) Order, 1956.

4. Certain words omitted by Act 108 of 1956, s. 66.

5. Subs. by Act 27 of 1956, s. 9, for ss. 20 and 21.

1. The words "to the acceptance of a nomination paper or" omitted by Act 27 of 1956, s. 10.

2. The words "or to the counting of votes" omitted by s. 10, *ibid.*

Returning officer to include assistant returning officers performing the functions of the returning officer.

23. References in this Act to the returning officer shall, unless the context otherwise requires' be deemed to include an assistant returning officer performing any function which he is authorized to perform under sub-section (2) of section 22.

General duty of the returning officer.

24. It shall be the general duty of the returning officer at any election to do all such acts and things as may be necessary for effectually conducting the election in the manner provided by this Act and rules or orders made thereunder.

Provision of polling stations for constituencies.

25. The returning officer for each constituency shall, with the previous approval of the Election Commission, provide a sufficient number of polling stations for such constituency, and shall publish, in such manner as the Election Commission may direct, a list showing the polling stations so provided and the polling areas [8][or groups of voters] for which they have respectively been provided.

Appointment of presiding officers for polling stations.

26. (1) The returning officer shall appoint a presiding officer for each polling station and such polling officer or officers as he thinks necessary, but he shall not appoint any person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or about the election:

Provided that if a polling officer is absent from the polling station, the presiding officer may appoint any person who is present at the polling station other than a person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or about the election, to be the polling officer during the absence of the former officer, and inform the returning officer accordingly.

[1][Provided further that nothing in this sub-section shall prevent the returning officer from appointing the same person to be the presiding officer for more than one polling station in the same premises.]

(2) A polling officer shall, if so directed by the presiding officer, perform all or any of the functions of a presiding officer under this Act or any rules or orders made thereunder.

(3) If the presiding officer, owing to illness or other unavoidable cause, is obliged to absent himself from the polling station, his functions shall be performed by such polling officer as has been previously authorized by the returning officer to perform such functions during any such absence.

(4) References in this Act to the presiding officer shall, unless the context otherwise requires, be deemed to include any person performing any function which he is authorized to perform under sub-section (2) or sub-section (3), as the case may be.

General duty of the presiding officer.

27. It shall be the general duty of the presiding officer at a polling station to keep order thereat and to see that the poll is fairly taken.

Duties of a polling officer.

28. It shall be the duty of the polling officers at a polling station to assist the presiding officer for such station in the performance of his functions.

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8. Ins. by s. 11, *ibid.*

1. Ins. by Act 27 of 1956, s. 12.

Special provisions in the case of certain elections.

29. (1) The returning officer for an election[2] * * * to fill a seat or seats in the Council of States or for an election by the members of the Legislative Assembly of a State to fill a seat or seats in the Legislative Council of the State shall, with the previous approval of the Election Commission, fix the place at which the poll will be taken for such election and shall notify the place so fixed in such manner as the Election Commission may direct.

(2) The returning officer shall preside over such election at the place so fixed and shall appoint such polling officer or officers to assist him as he thinks necessary but he shall not appoint any person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or about the election.

PART V

CONDUCT OF ELECTIONS

CHAPTER I.—*Nomination of Candidates*

Appointment of dates for nominations, etc.

[1][**30.** As soon as the notification calling upon a constituency to elect a member or members is issued, the Election Commission shall, by notification in the Official Gazette, appoint—

(*a*) the last date for making nominations, which shall be the [2][seventh day] after the date of publication of the firstmentioned notification or, if that day is a public holiday, the next succeeding day which is not a public holiday ;

(*b*) the date for the scrutiny of nominations, which shall be the [3][second day] after the last date for making nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday ;

(*c*) the last date for the withdrawal of candidatures, which shall be the third day after the date for the scrutiny of nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday ;

(*d*) the date or dates on which a poll, shall, if necessary, be taken, which or the first of which shall be a date not earlier than the twentieth day after the last date for the withdrawal of candidatures ; and

(*e*) the date before which the election shall be completed.

Explanation.—In this section, "public holiday" means any day which is a public holiday for the purposes of section 25 of the Negotiable Instruments Act, 1881, (26 of 1881), or any day which has been notified by the State Government to be a holiday for the Government offices in the State.]

Public notice of election.

31. On the issue of a notification under section 30, the returning officer for the constituency shall give public notice of the intended election in such form and manner as may be prescribed, inviting nominations of candidates for such election and specifying the place at which the nomination papers are to be delivered.

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2. The words and brackets "(other than a primary election)" omitted by s. 18, *ibid.*

1. Subs. by Act 27 of 1956, s. 14 for s. 30.

2. Subs. by Act 40 of 1961, s. 7, for "tenth day" (w.e.f. 20-9-1961).

3. Subs. by s. 7, *ibid.*, for "third day" (w.e.f. 20-9-1961).

Nomination of candidates for election.

32. Any person may be nominated as a candidate for election to fill a seat [1]* * * if he is qualified to be chosen to fill that seat under the provisions of the Constitution and this Act [2] * * *.

Presentation of nomination paper and requirements for a valid nomination.

[3][**33.** (1) On or before the date appointed under clause (*a*) of section 30 each candidate shall, either in person in person or by his proposer, between the hours of eleven o'clock in the forenoon and three o'clock in the afternoon deliver to the returning officer at the place specified in this behalf in the notice issued under section 31 a nomination paper completed in the prescribed form and signed by the candidate and by an elector of the constituency as proposer.

(2) In a constituency where any seat is reserved, a candidate shall not be deemed to be qualified to be chosen to fill that seat unless his nomination paper contains a declaration by him specifying the particular caste or tribe of which he is a member and the area in relation to which that caste or tribe is a Scheduled Caste or, as the case may be, a Scheduled Tribe of the State.

(3) Where the candidate is a person who, having held any office referred to in clause (*f*) of section 7, has been dismissed and a period of five years has not elapsed since the dismissal, such person shall not be deemed to be duly nominated as a candidate unless his nomination paper is accompanied by a certificate issued in the prescribed manner by the Election Commission to the effect that he has not been dismissed for corruption or disloyalty to the State.

(4) On the presentation of a nomination paper, the returning officer shall satisfy himself that the names and electoral roll numbers of the candidate and his proposer as entered in the nomination paper are the same as those entered in the electoral rolls :

Provided that the returning officer shall permit any clerical or technical error in the nomination paper in regard to the said names or numbers to be corrected in order to bring them into conformity with the corresponding entries in the electoral rolls ; and where necessary, direct that any clerical or printing error in the said entries shall be overlooked.

(5) Where the candidate is an elector of a different constituency, a copy of the electoral roll of that constituency or of the relevant part thereof or a certified copy of the relevant entries in such roll shall, unless it has been filed along with the nomination paper, be produced before the returning officer at the time of scrutiny.

[1][(6) Nothing in this section shall prevent any candiate from being nominated by more than one nomination paper:

Provided that not more than four nomination papers shall be presented by or on behalf of any candidate or accepted by the returning officer for election in the same constituency.]

Deposits.

34. [2][(1) A candidate shall not be deemed to be duly nominated for election from a constituency unless he deposits or causes to be deposited—

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1. The words "in any constituency" omitted by Act 27 of 1956, s. 15,
2. Certain words ins. by s. 15, *ibid.*, omitted by the Adaptation of Laws (No. 2) Order, 1956.
3. Subs. by Act 27 of 1956, s. 16, for s. 33.
1. Subs. by Act 40 of 1961, s. 8, for sub-section (6) (w.e.f. 20-9-1961).
2. Subs. by Act 27 of 1956, s. 17, for sub-section (1).

(*a*) in the case of an election from a Parliamentary constituency, a sum of five hundred rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of two hundred and fifty rupees ; [3][and]

(*b*) in the case of an election from an Assembly or Council constituency, a sum of two hundred and fifty rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of one hundred and twenty-five rupees: [4]* * *

[4]* * * * *

Provided that where a candidate has been nominated by more than one nomination paper for election in the same constituency, not more than one deposit shall be required of him under this sub-section.]

(2) Any sum required to be deposited under sub-section (1) shall not be deemed to have been deposited under that sub-section unless at the time of delivery of the nomination paper under sub-section (1) of section 33 the candidate has either deposited or caused to be deposited that sum with the returning officer in cash or enclosed with the nomination paper a receipt showing that the said sum has been deposited by him or on his behalf in the Reserve Bank of India or in a Government Treasury.

Notice of nominations and the time and place for their scrutiny.

35. The returning officer shall, on receiving the nomination paper under sub-section (1) of section 33, inform the person or persons delivering the same of the date, time and place fixed for the scrutiny of nominations and shall enter on the nomination paper its serial number, and shall sign thereon a certificate stating the date on which and the hour at which the nomination paper has been delivered to him ; and shall, as soon as may be thereafter, cause to be affixed in some conspicuous place in his office a notice of the nomination containing descriptions similar to those contained in the nomination paper, both of the candidate and of [1][the proposer].

Scrutiny of nominations.

36. (1) On the date fixed for the scrutiny of nominations under section 30, the candidates, their election agents, one proposer [2]* * * of each candidate, and one other person duly authorized in writing by each candidate, but no other person, may attend at such time and place as the returning officer may appoint ; and the returning officer shall give them all reasonable facilities for examining the nomination papers of all candidates which have been delivered within the time and in the manner laid down in section 33.

(2) The returning officer shall then examine the nomination papers and shall decide all objections which may be made to any nomination and may, either on such objection or on his own motion, after such summary inquiry, if any, as he thinks necessary, [3][reject] any nomination on any of the following grounds:—

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3. Ins. by Act 58 of 1958, s. 18.
4. The word "and" and cl. (*c*) omitted by s. 18, *ibid.*
1. Subs. by Act 27 of 1953, s. 18, for "the persons who have subscribed the nomination paper as proposer and seconder".
2. The words "and one seconder". omitted s. 19, *ibid.*
3. Subs. by s. 19, *ibid*,. for "refuse".

[4][(*a*) [5][that on the date fixed for the scrutiny of nominations the candidate] either is not qualified or is disqualified for being chosen to fill the seat under any of the following provisions that may be applicable, namely:—

Articles 84, 102, 173 and 191, [6][and] Part II of this Act,

[1]* * *; or

(*b*) that there has been a failure to comply with any of the provisions of section 33 or section 34 ; or

(*c*) that the signature of the candidate or the proposer on the nomination paper is not genuine.]

(3) Nothing contained in [2][clause (*b*) or clause (*c*)] of sub-section (2) shall be deemed to authorize the [3][rejection] of the nomination of any candidate on the ground of any irregularity in respect of a nomination paper, if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed.

(4) The returning officer shall not reject any nomination paper on the ground of any [4]* * * defect which is not of a substantial character.

(5) The returning officer shall hold the scrutiny on the date appointed in this behalf under clause (*b*) of section 30 and shall not allow any adjournment of the proceedings except when such proceedings are interrupted or obstructed by riot or open violence or by causes beyond his control:

Provided that in case [5][an objection is raised by the returning officer or is made by any other person] the candidate concerned may be allowed time to rebut it not later than the next day but one following the date fixed for scrutiny, and the returning officer shall record his decision on the date to which the proceedings have been adjourned.

(6) The returning officer shall endorse on each nomination paper his decision accepting or rejecting the same and, if the nomination paper is rejected, shall record in writing a brief statement of his reasons for such rejection.

[6][(7) For the purposes of this section, a certified copy of an entry in the electoral roll for the time being in force of a constituency shall be conclusive evidence of the fact that the person referred to in that entry is an elector for that constituency, unless it is proved that he is subject to a disqualification mentioned in section 16 of Representation of the People Act, 1950 (43 of 1950).

(8) Immediately after all the nomination papers have been scrutinized and decisions accepting or rejecting the same have been recorded, the returning officer shall prepare a list of validly nominated candidates, that is to say, candidates whose nominations have been found valid, and affix it to his notice board.]

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4. Subs. by s. 19, *ibid.*, for cls. (*a*) to (*c*).
5. Subs. by Act 40 of 1961, s. 9, for "that the candidate" (w. e.f. 20-9-1961).
6. Ins. by the Adaptation of Laws (No. 2) Order, 1956.
1. The words and figures "and sections 7 and 17 of the Government of Part C States Act, 1951 (49 of 1951)" omitted by the Adaptation of Laws (No 2) Order, 1956.
2. Subs. by Act 27 of 1956, s. 19, for "clause (*c*), clause (*d*) or clause (*e*)".
3. Subs. by s. 19, *ibid.*, for "refusal".
4. The word "technical" omitted by s. 19, *ibid.*
5. Subs by Act 40 of 1961, s. 9, for "an objection is made" (w.e.f. 20-9-1961).
6. Subs. by Act 27 of 1956, s. 19, for sub-section (7).

37. (1) Any candidate may withdraw his candidature by a notice in writing which shall contain such particulars as may be prescribed and shall be subscribed by him and delivered before three o'clock in the afternoon on the day fixed under clause (*c*) of section 30 to the returning officer either by such candidate in person or by his proposer, [1] * * * or election agent who has been authorized in this behalf in writing by such candidate.

Withdrawal of candidature.

[1]* * * * *

(2) No person who has given a notice of withdrawal of his candidature under sub-section (1) shall be allowed to cancel the notice.

[2][(3) The returning officer shall, on being satisfied as to the genuineness of a notice of withdrawal and the identity of the person delivering it under sub-section (1), cause the notice to be affixed in some conspicuous place in his office.]

[3][**38.** (1) Immediately after the expiry of the period within which candidatures may be withdrawn under sub-section (1) of section 37, the returning officer shall prepare and publish in such form and manner as may be prescribed a list of contesting candidates, that is to say, candidates who were included in the list of validly nominated candidates and who have not withdrawn their candidature within the said period.

Publication of list of contesting candidates.

(2) The said list shall contain the names in alphabetical order and the addresses of the contesting candidates as given in the nomination papers together with such other particulars as may be prescribed.]

[4][**39.** (1) As soon as the notification calling upon the elected members or the members of the Legislative Assembly of a State or the members of the electoral college of a [5][Union territory] to elect a member or members is issued, the Election Commission shall, by notification in the Official Gazette, appoint—

Nomination of candidates at other elections.

(*a*) the last date for making nominations, which shall be the [1][seventh day] after the date of publication of the firstmentioned notification or, if that day is a public holiday, the next succeeding day which is not a public holiday ;

(*b*) the date for the scrutiny or nominations, which shall be the second day after the last date for making nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday ;

(*c*) the last date for the withdrawal of candidatures, which shall be the third day after the date for the scrutiny of nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday ;

(*d*) the date or dates on which a poll shall, if necessary, be taken, which or the first of which shall be a date not earlier than the seventh day after the last date for the withdrawal of candidatures ; and

(*e*) the date before which the election shall be completed.

Explanation.—In this section, "public holiday" has the same meaning as in section 30.

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1. The word "seconder" and the proviso omitted by Act 27 of 1956, s. 20.
2. Subs. by Act 40 of 1961, s. 10, for sub-section (3) (w.e.f. 20-9-1961).
3. Subs. by Act 27 of 1956, s. 21, for s. 38.
4. Subs. by s. 22, *ibid.*, for s. 39.
5. Subs. by the Adaptation of Law (No 2) Order, 1956, for "Part C State".
1. Subs. by Act 40 of 1961, s. 11, for "tenth day" (w.e.f. 20-9-1961).

(2) The provisions of sections 31 to 38, excluding sub-sections (2) and (5) of section 33 and [2][clause (*a*) of sub-section (1) of section 34], shall apply in relation to any such election as they apply in relation to an election in any constituency:

Provided that—

(*a*) any references in the said provisions to the electoral roll of the constituency shall, unless the context otherwise requires, be construed, in the case of an election by the members or the elected members of the Legislative Assembly of the State, as references to the list of members or elected members, as the case may be, of that Assembly maintained under sub-section (1) of section 152, and in the case of an election by the members of the electoral college of a [3][Union territory], as references to the list of members of such electoral college maintained under sub-section (2) of that section.

(*b*) any references in the said provisions to section 30 shall be construed as references to sub-section (1) of this section ; and

(*c*) at the time of presenting toe nomination paper, the returning officer may require the person presenting the same to produce either a copy of the electoral roll, or part of the electoral roll, in which the name of the candidate is included or a certified copy of the relevant entries in such roll.]

CHAPTER II.—*Candidates and their Agents*

Election agents.

[1][**40.** A candidate at an election may appoint in the prescribed manner any one person other than himself to be his election agent and when any such apppointment is made, notice of the appointment shall be given in the prescribed manner to the returning officer.]

Disqualification for being an election agent.

41. No person shall be appointed an election agent who is disqualified from being an election agent under section 145.

Revocation of the appointment, or death, of an election agent-

42. (1) Any revocation of the appointment of an election agent, [2]* * *, shall be signed by the candidate, and shall operate from the date on which it is lodged with the returning officer.

[3][(2) In the event of such a revocation or of the death of an election agent whether that event occurs before or during the election, or after the election but before the account of the candidate's election expenses has been lodged in accordance with the provisions of section 78, the candidate may appoint in the prescribed manner another person to be his election agent and when such appointment is made notice of the appointment shall be given in the prescribed manner to the returning officer.]

43. [*Effect of default in appointment of election agent under seciion* 42.] *Rep. by the Representation of the People (Second Amendment) Act*, 1956 (27 *of* 1956), *s.* 25.

44. [*Duty of the elction agent to keep accounts.*] *Rep. by s.* 25, ibid.

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2. Subs. by Act 58, of 1958, s. 19, for "section 34".

3. Subs. by the Adaptation of Laws (No. 2) Order, 1956, for "Part C State".

1. Subs. by Act 27 of 1956, s. 28, for s. 40.

2. The words "whether he be the candidate himself or not" omitted by s. 24, *ibid.*

3. Subs. by s. 24, *ibid.* for sub-section (2).

Functions of election agents.

[1][45. An election agent may perform such functions in connection with the election as are authorised by or under this Act to be performed by an election agent.]

Appointment of polling agents.

[2][46. A contesting candidate or his election agent may appoint in the prescribed manner such number of agents and relief agents as may be prescribed to act as polling agents of such candidate at each polling station provided under section 25 or at the place fixed under sub-section (1) of section 29 for the poll.]

Appointment of counting agents.

[3][47. A contesting candidate or his election agent may appoint in the prescribed manner one or more persons, but not exceeding such number as may be prescribed, to be present as his counting agent or agents at the counting of votes, and when any such appointment is made notice of the appointment shall be given in the prescribed manner to the returning officer.]

Revocation of the appointment, or death of a polling agent or counting agent.

48. (1) Any revocation of the appointment of a polling agent shall be signed by the candidate or his election agent and shall operate from the date on which it is lodged with such officer as may be prescribed, and in the event of such a revocation or of the death of a polling agent before the close of the poll, the candidate or his election agent may appoint in the prescribed manner another polling agent at any time before the poll is closed and shall forthwith give notice of such appointment in the prescribed manner to such officer as may be prescribed.

(2) Any revocation of the appointment of a counting agent shall be signed by the candidate or his election agent and shall operate from the date on which it is lodged with the returning officer, and, in the event of such a revocation or of the death of a counting agent before the commencement of the counting of votes, the candidate or his election agent may appoint in the prescibed manner another counting agent at any time before the counting of votes is commenced and shall forthwith give notice of such appointment in the prescribed manner to the returning officer.

Functions of polling agent and counting agents.

49. (1) A polling agent may perform such functions in connection with the poll as are authorized by or under this Act to be performed by a polling agent.

(2) A counting agent may perform such functions in connection with counting of votes as are authorized by or under this Act to be performed by a counting agent,

Attendance of a contesting candidate or his election agent at polling stations, and performance by him of the functions of a polling agent or counting agent.

50. (1) At every election where a poll is taken, each[1][contesting candidate] at such election and his elction agent shall have a right to be present at any polling station provided under section 25 for the taking of the poll or at the place fixed under sub-section (1) of section 29 for the poll.

(2) A[1][contesting candidate] or his election agent may himself do any act or thing which any polling agent or the counting agent of such[1][contesting candidate], if appointed, would have been authorized by or under this Act to do, or may assist any polling agent or the counting agent of such [1][contesting candidate] in doing any such act or thing,

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1. Subs. by Act 27 of 1956, s. 23, for s. 45.
2. Subs. by s. 27, *ibid*, for s. 46.
3. Subs. by s. 28, *ibid.*, for s. 47.
1. Subs. by Act 58 of 1958, s. for "candidate".

Non-attendance of polling or counting agents.

51. Where any act or thing is required or authorized by or under this Act to be done in the presence of the polling or counting agents the non-attendance of any such agent or agents at the time and place appointed for the purpose shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

CHAPTER III.—*General Procedure at Elections*

Death of candidate before poll.

52. [2][If a contesting candidate dies and a report of his death is received] before the commencement of the poll, the returnig officer shall, upon being satisfied of the fact of the death of the candidate, the poll and report the fact to the Election Commission and also to the appropriate authority and all proceedings with reference to the election shall be commenced anew in all respects as if for a new election:

[3][Provided that no further nomination shall be necessary in the case of a person who was a contesting candidate at the time of the countermanding of the poll:]

Provided further that no person who has[4][given a notice of withdrawal of his candidature under sub-section (1) of section 37[5]* * *] before the countermanding of the poll shall be ineligible for being nominated as a candidate for the election after such countermanding.

Procedure in contested and uncontested elections.

53. [1][(1) If the number of contesting candidates is more than the number of seats to he filled, a poll shall be taken.]

(2) If the number of such candidates is equal to the number of seats to be filled, the returning officer shall forthwith declare all such candidates to be duly elected to fill those seats.

(3) If the number of such candidates is less than the number of seats to be filled, the returning officer shall forthwith declare all such candidates to be elected and the[2][Election Commission] shall, by notification in the Official Gazette, call upon the constituency or the elected members or the members of the State Legislative Assembly or the members of the electoral college concerned [3]* * *, as the case may be, to elect a person or persons to fill the remaining seat or seats[4]* * *:

Provided that where the constituency or the elected members or the members of the State Legislative Assembly or the members of the electoral college[3]* * * having already been called upon under this sub-section, has or have failed to elect a person or the requisite number of persons, as the case may be, to fill

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2. Subs. by Act 27 of 1956, s. 29, for certain words.
3. Subs. by s. 29, *ibid* , for the first proviso.
4. Subs. by s. 29, *ibid.*, for "under sub-section (1) of section 37 given a notice of with-drawal of his candidature".
5. The words, brackets, figures and letter "or a notice of retirement from the contest under sub-section (2) of section 55A" omitted by Act 58 of 1958, s. 21.
1. Subs. by Act 27 of 1956, s. 30, for sub-section (1).
2. Subs. by s. 30, *ibid.*, for "appropriate authority".
3. The words "or the elected members of the Coorg Legislative Council" omitted by Act 49 of 1951, s. 44 and Sch. V.
4. The words "before such date as may be appointed in this behalf by the Election Commission and specified in the notification" omitted by Act 27 of 1956, s. 30.

the vacancy or vacancies, the[2][Election Commission] shall not be bound to call again upon the constituency, or such members to elect a person or persons [5][until it is satisfied that if called upon again, there will be no such failure on the part of the constituency or such members].

54. [*Special procedure at elections in constituencies where seats are reserved for Scheduled Castes or Scheduled Tribes.*] *Rep. by the Represeniation of the People (Amendment) Act*, 1961 (40 *of* 1961), *s.* 12 (*w.e.f.* 20-9-1961).

Eligibility of members of Scheduled Castes or Scheduled Tribes to hold seats not reserved for those castes or tribes.

55. For the avoidance of doubt it is hereby declared that a member of the Scheduled Castes or of the Scheduled Tribes shall not be disqualified to hold a seat not reserved for members of those castes or tribes, if he is otherwise qualified to hold such seats under the Constitution and this Act[6]* * *.

[1]**55A.** [*Retirement from contest at elections in Parliamentary and Assembly constituencies.*] *Rep. by the Representation of the People (Amendment) Act*, 1958 (58 *of* 1958), *s.* 22.

CHAPTER IV:—*The Poll*

Fixing time for poll.

56. The[2][Election Commission] shall fix the hours during which the poll will be taken; and the hours so fixed shall be published in such manner as may be prescribed:

Provided that the total period allotted on any one day for polling at an election in[3][a Parliamentary or Assembly constituency] shall not be less than eight hours.

Adjournment of poll in emergencies.

57. (1) If at an election the proceedings at any polling station provided under section 25 or at the place fixed under sub-section (1) of section 29 for the poll are interrupted or obstructed by any riot or open violence, or if at an election it is not possible to take the poll at any polling station or such place on account of any natural calamity, or any other sufficient, cause, the presiding officer for such polling station or the returning officer presiding over such place, as the case may be, shall announce an adjournment of the poll to a date to be notified later, and where the poll is so adjourned by a presiding officer, he shall forthwith inform the returning officer concerned.

(2) Whenever a poll is adjourned under sub-section (1), the returning officer shall immediately report the circumstances to the appropriate authority and the Election Commission, and shall, as soon as may be, with the previous approval of the Election Commission, appoint the day on which the poll shall recommence, and fix the polling station or place at which, and the hours during which, the poll will be taken, and shall not count the votes cast at such election until such adjourned poll shall have been completed.

(3) In every case as aforesaid, the returning officer shall notify in such mannner as the Election Commission may direct the date, place and hours of polling fixed under sub-section (2).

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5. Subs. by s. 80, *ibid*, for "until such date as the Election Commission may specify in this behalf".

6. The words "or under the Govemment of Part C States Act, 1951, as the case may be" ins. by Act 27 of 1957, s. 82, omitted by the Adaptation of Laws (No. 2) Order, 1956.

1. Ins. by Act 27 of 1956, s. 38.

2. Subs. by s. 84, *ibid.*, for "appropriate authority".

3. Subs. by Act 58 of 1958, s. 28, for "a constituency"

Fresh poll in the case of destruction, etc., of ballot boxes.

[1][58. (1) If at any election,—

(*a*) any ballot box used at a polling station or at a place fixed for the poll is unlawfully taken out of the custody of the presiding officer or the returning officer, or is accidentally or intentionally, destroyed or lost, or is damaged or tampered with, to such an extent, that the result of the poll at that polling station or place connot be ascertained, or

(*b*) any such error or irregularity in procedure as is likely to vitiate the poll is committed at a polling station or at a place fixed for the poll,

the returning officer shall forthwith report the matter to the Election Commission.

(2) Thereupon, the Election Commission shall, after taking all material circumstances into account, either—

(*a*) declare the poll at that polling station or place to be void. appoint a day, and fix the hours, for taking a fresh poll at that polling station or place and notify the day so appointed and the hours so fixed in such manner as it may deem fit, or

(*b*) if satisfied that the result of a fresh poll at that polling station or place will not, in any way, affect the result of the election or that the error or irregularity in procedure is not material, issue such directions to the returning officer as it may deem proper for the further conduct and completion of the election.

(3) The provisions of this Act and of any rules or orders made thereunder shall apply to every such fresh poll as they apply to the original poll.]

Manner of voting at elections.

59. At every election where a poll is taken votes shall be given by ballot in such manner as may be pre scribed, and no votes shall be received by proxy.

Special procedure for voting by certain classes of persons.

60. Without prejudice to the generality of the provisions contained in section 59, provision may be made by rules made under this Act for enabling—

(*a*) any of the following persons to give his vote by postal ballot, and not in any other manner, at an election in a constituency where a poll is taken namely:—

(*i*) a member of the Armed Forces of the Union to whom the provisions of sub-section (3) of section 20 of the Representation of the People Act, 1950 (43 of 1950), apply ;

[1]* * * * *

(*iii*) a person who is employed under the Government of India in a post outside India ;

(*iv*) the wife of any such person as is referred to in sub-clauses (*i*), [2]***and (*iii*) to whom the provisions of sub-section (6) of the said section 20 apply ;

(*b*) any person subjected to preventive detention under any law for the time being in force to give his vote by postal ballot, and not in any other manner, at an election in a constituency where a poll is taken, subject to the fulfilment of such requirements as may be specified in those rules.

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1. Subs. by Act 40 of 1961, s. 58 (w.e.f. 20-9-1961).

1. Sub-clause (*ii*) omitted by Act 58 of 1958, s. 24.

2. Brackets and figures "(*ii*)" omitted by s. 24, *ibid.*

[3][61. With a view to preventing personation of electors provision may be made by rules made under this Act,—

Special procedure for preventing personation of electors.

(*a*) for the marking with indelible ink of the thumb or any other finger of every elector who applies for a ballot paper or ballot papers for the purpose of voting at a polling station before delivery of such paper to him ;

(*b*) for the production before the presiding officer or a polling officer of a polling station by every such elector as aforesaid of his identity card before the delivery of a ballot paper or ballot papers to him if under rules made in that behalf under the Representation of the People Act, 1950 (43 of 1950), electors of the constituency in which the polling station is situated have been supplied with identity cards with or without their respective photographs attached thereto ; and

(*c*) for prohibiting the delivery of any ballot paper to any person for voting at a polling station if at the time such person applies for such paper he has already such a mark on his thumb or any other finger or does not produce on demand his identity card before the presiding officer or a polling officer of the polling station.]

62. (1) No person who is not, and except as expressly provided by this Act, every person who is, for the time being entered in the electoral roll of any constituency shall be entitled to vote in that constituency,

Right to vote.

(2) No person shall vote at an election in any constituency if he is subject to any of the disqualifications referred to in section 16 of the Representation of the People Act, 1950 (43 of 1950).

(3) No person shall vote at a general election in more than one constituency of the same class, and if a person votes in more than one such constituency, his votes in all such constituencies shall be void.

(4) No person shall at any election vote in the same constituency more than once, notwithstanding that his name may have been registered in the electoral roll for that constituency more than once, and if he does so vote, all his votes in that constituency shall be void.

(5) No person shall vote at any election if he is confined in a prison, whether under a sentence of imprisonment or transportation or otherwise, or is in the lawful custody of the police:

Provided that nothing in this sub-section shall apply to a person subjected to preventive detention under any law for the time being in force.

63. [*Method of voting.*] *Rep. by Representation of the People (Amendment) Act*, 1961 (40 *of* 1961) *s.* 14 *(w.e.f.*20-9 1961),

CHAPTER *V.—Counting of Votes*

64. At every election where a poll is taken, votes shall be counted by, or under the[1][supervision and direction] of, the returning officer, and each [2][contesting candidate], his election agent and his [3][counting agents], shall have a right to be present at the time of counting.

Counting of votes.

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8. Subs. by s. 25., *ibid* for s. 61.

1. Subs. by Act 27 of 1956, s. 86, for "supervision".

2. Subs. by Act 58 of 1958, s 26, for "candidate".

3. Subs. by Act 27 of 1956, s. 86, for "counting agent"

65. If, after the counting of the votes is completed, an equality of votes is found to exist between any candidates, and the addition of one vote will entitle any of those candidates to be declared, the returning officer shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

Equality of votes.

66. When the counting of the votes has been completed, the returning officer shall forthwith declare the result of the election in the manner provided by this Act or the rules made thereunder.

Declaration of results.

67. As soon as may be after the result of an election has been declared, the returning officer shall report the result to the appropriate authority and the Election Commission, and in the case of an election to a House of Parliament or of the Legislature of a State also to the Secretary of that House, and the appropriate authority shall cause to be published in the Official Gazette the declarations containing the names of the elected candidates.

Report of the result.

[1][**67A.** For the purposes of this Act, the date on which a candidate is declared by the returning officer under the provisions of section 53,[2]* * *, [3]* * * or section 66, to be elected to a House of Parliament or of the Legislature of a State [4]* * * shall be the date of election of that candidate.]

Date of election of candidate.

CHAPTER VI.—*Multiple Elections*

68. (1) Any person who is chosen a member of both the House of the People and the Council of States and who has not taken his seat in either House may, by notice in writing signed by him and delivered to the Secretary to the Election Commission[5][within ten days from the date, or the later of the dates, on which he is so chosen, intimate] in which of the Houses he wishes to serve, and thereupon, his seat in the House in which he does not wish to serve shall become vacant.

Vacation of seats when elected to both Houses of Parliament.

(2) In default of such intimation within the aforesaid period, his seat in the Council of States shall, at the expiration of that period, become vacant.

(3) Any intimation given under sub-section (1) shall be final and irrevocable.

[6][(4) For the purposes of this section and of section 69, the date on which a person is chosen to be a member of either House of Parliament shall be in the case of an elected member, the date of his election and in the case of a nominated member, the date of first publication in the Gazette of India of his nomination.]

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1. Ins. by Act 27 of 1956, s. 87.
2. The word and figures "section 54" omitted by Act 40 of 1961, s. 15(w.e.f. 20-9-1961).
3. The word, figures and letter "section 55A" mitted by Act 58 of 1958, s. 27.
4. Certain words omitted by Act 108 of 1956, s 66.
5. Subs. by Act 27 of 1956, s. 88, for certain words.
6. Ins. by s. 88, *ibid.*

69. (1) If a person who is already a member of the House of the People and has taken his seat in such House is chosen a member of the Council of States, his seat in the House of the People shall, [1][on the date on which he is so chosen], become vacant.

Vacation of seats by persons already members of one House on election to other House of Parliament.

(2) If a person who is already a member of the Council of States and has taken his seat in such Council is chosen a member of the house of the People, his seat in the Council of States shall, [1][on the date on which he is so chosen], become vacant.

70. If a person is elected to more than one seat in either House of Parliament or in the House or either House of the Legislature of a State, then, unless within the prescribed time he resigns all but one of the seats [2][by writing under his hand addressed to the Speaker or Chairman, as the case may be, or to such other authority or officer as may be prescribed], all the seats shall become vacant.

Election to more than one seat in either House of Parliament or in t e House or either House of the Legislature of a State.

CHAPTER VII.—*Publication of Election Results and Nominations*

[3][**71.** After the elections held in any year in pursuance of the notifications issued under section 12, there shall be notified by the appropriate authority in the Official Gazette the names of members elected by the elected members of the Legislative Assemblies of the States and by the members of the electoral colleges for the various [4][Union territories] at the said elections together with the names of any persons nominated by the President to the Council of States under sub-clause (*a*) of clause (1) of articles 80 or under any other provisions.

Publication of results of elections to the Council of States and of names of persons nominated by the President.

72. [*Publication of results of elections for the reconstitution of electoral colleges for certain Union territories.*] *Rep. By the Territorial Councils Act, 1956* (103 *of* 1656), *s.* 66.

73. Where a general election is held for the purpose of constituting a new House of the People or a new State Legislative Assembly, there shall be notified by [1][the Election Commission] in the Official Gazette, as soon as may be after the date originally fixed for the completion of the election under clause (*e*) of section 30, the names of the members elected for the various constituencies by that date[2]* * * and upon the issue of such notification that House or Assembly shall be deemed to be duly constituted.

Publication of results of general elections to the House of the People and the State Legislative Assemblies.

Provided that the issue of such notification shall not be deemed—

(*a*) to preclude the completion of the election in any Parliamentary or any Assembly constituency or constituencies for which time has been extended under the provisions of section 153; or

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1. Subs. by Act 27 of 1956, s. 89, for "on the publication in the Gazette of India of the declaration that he has been so chosen".
2. Ins. by s. 40, *ibid.*
3. Subs. by s. 41, *ibid.*, for ss. 71 to 75.
4. Subs. by the Adaptation of Laws (No. 2) Order, 1956, for "Part C States".
1. Subs. by Act 40 of 1961, s. 16, for "the appropriate authority" (w.e.f. 20-9-1961).
2. Certain words omitted by s. 16, *ibid.* (w.e.f. 20-9-1961)

(*b*) to affect the duration of the House of the People or the State Legislative Assembly, if any, functioning immediately before the issue of the said notification.

Publication of results of elections to the State Legislative Councils and of names of persons nominated to such Councils.

74. After the elections held[3] [in pursuance of the notifications issued under section 15A or] in any year in pursuance of the notifications issued under section 16, there shall be notified by the appropriate authority in the Official Gazette the names of the members elected for the various Council constituencies and by the members or the Legislative Assembly of the State at the said elections together with the names of any persons nominated by the Governor [4]*** under sub-clause (*e*) of clause (*3*) of article 171.]

CHAPTER VIII.—*Election Expenses*

Application of Chapter.

[5][**76.** This Chapter shall apply only to elections to to the House of the People and to the Legislative Assembly of a State.

Account of election expenses and maximum thereof.

77. (1) Every candidate at an election shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorized by him or by his election agent between the date of publication of the notification calling the election and the date of declaration of the result thereof, both dates inclusive.

(2) The account shall contain such particulars, as may be prescribed.

(3) The total of the said expenditure shall not exceed such amount as may be prescribed.

Lodging of account with the returning officer.

78. Every contesting candidate at an election shall, within thirty days from the date of election of the returned candidate or, if there are more than one returned candidate at the election and the dates of their election are different, the later of those two dates, lodge with the returning officer an account of his election expenses which shall be a true copy of the account kept by him or by his election agent under section 77.]

PART VI

DISPUTES REGARDING ELECTIONS

CHAPTER I.—*Interpretation*

Definitions.

79. In this Part and in Parts VII and VIII, unless the context otherwise requires,—

[1]* * * * *

(*b*) "candidate" means a person who has been or claims to have been duly nominated as a candidate at any election, and any such person shall

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3. Ins. by Act 87 of 1957, s. 18.

4. The words "or Rajpramukh, as the case may be" omitted by the Adaptation of Laws (No. 2) Order, 1956.

5. Subs. by Act 27 of 1956, s. 42, for ss. 76 to 78.

1. Cl. (*a*) omitted by Act 27 of 1956, s. 48.

be deemed to have been a candidate as from the time when, with the election in prospect, he began to hold himself out as a prospective candidate ;

(*c*) "costs" means all costs, charges and expenses of, or incidental to, a trial of an election petition ;

(*d*) "electoral right" means the right of a person to stand or not to stand as, or to withdraw from being, a candidate, or to vote or refrain from from voting at an election ;

(*e*) "pleader" means any person entitled to appear and plead for another in a civil court and includes an advocate, a vakil and an attorney of a High Court;

(*f*) "returned candidate" means a candidate whose name has been published under section 67 as duly elected.

CHAPTER II.—*Presentation of Election Petitions to Election Commission*

Election petitions.

80. No election shall be called in question except by an election petition presented in accordance with the provisions of this Part.

Presentation of petitions.

81. (1) An election petition calling in question any election may be presented on one or more of the grounds specified in[1][sub-section (1)] of section 100 and section 101 to the Election Commssion by any candidate at such election or any elector[2][within forty-five days from, but not earlier than, the date of election of the returned candidate, or if there are more than one returned candidate at the election and the dates of their election are different, the later of those two dates]

Explanation.—In this sub-section, "elector" means a person who was entitled to vote at the election to which the election petition relates, whether he has voted at such election or not.

(2) An election petition shall be deemed to have been presented to the Election Commission—

(*a*) when it is delivered to the Secretary to the Commission or to such other officer as may be appointed by the Election Commission in this behalf—

(*i*) by the person making the petition, or

(*ii*) by a person authorised in writing in this behalf by the person making the petition ; or

(*b*) when it is sent by registered post and is delivered to the Secretary to the Commission or the officer so appointed.

[3][(3) Every election petition shall be accompanied by as many copies thereof as there are respondents mentioned in the petition and one more copy for the use of the Election Commission, and every such copy shall be attested by the petitioner under his own signature to be a true copy of the petition]

Parties to the petition.

[4][**82.** A petitioner shall join as respondents to his petition—

1. Subs. by Act 27 of 1956, s. 44, for "sub-sections (1) and (2)".
2. Subs. by s. 44, *ibid.*, for certain words.
3. Ins. by Act 40 of 1961, s. 17 (w.e.f. 20-9-1961).
4. Subs. by Act 27 of 1956, s. 46, for s. 82.

(*a*) where the petitioner, in addition to claiming a declaration that the election of all or any of the returned candidates is void, claims a further declaration that he himself or any other candidate has been duly elected, all the contesting candidates other than the petitioner, and where no such further declaration is claimed, all the returned candidates, and

(*b*) any other candidate against whom allegations of any corrupt practice are made in the petition.]

Contents of petition.

[1][**83.** (1) An election petition—

(*a*) shall contain a concise statement of the material facts on which the petitioner relies :

(*b*) shall set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each practice; and

(*c*) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (5 of 1908), for the verification of pleadings:

[2][Provided that where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars therof.

(2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.]

Relief that may be claimed by the petitioner.

84. A petitioner may, in addition to claiming a declaration that the election of all or any of the returned candidates is void, claim a further declaration that he himself or any other candidate has been duly elected.]

Procedure on receiving petition.

[4][**85.** If the provisions of section 81 or section 82 or section 117 have not been complied with, the Election Commission shall dismiss the petition:

Provided that the petition shall not be dismissed without giving the petitioner an opportunity of being heard,]

CHAPTER III.—*Trial of Election Petitions*

Appointment of Election Tribunal.

[5][**86.** (1) If the petition is not dismissed under section 85, the Election Commission shall cause a copy thereof to be published in the Official Gazette and a copy to be served by post on each respondent, and shall then refer the petition to an Election Tribunal for trial.

(2) For the purpose of constituting such Tribunals, the Election Commission shall obtain from the High Court of each State (other than Jammu and Kashmir) a list of persons who are district judges in the State and are in the opinion of the High Court fit to be appointed as members of Election Tribunals and shall maintain the list by making such alterations therein as the High Court may, from time to time, direct.

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1. Subs. by Act 27 of 1956, s. 46, for s. 83.
2. Ins. by Act 40 of 1961, s. 18 (w.e.f. 20-9-1961).
3. Subs. by Act 27 of 1956, s. 47, for s. 84.
4. Subs. by s. 48, *ibid.*, for s. 85.
5. Subs. by Act 27 of 1956, s. 49, for s. 86.

Explanation.—In this sub-section, the expression "district judge" includes judge of a city civil court, additional district judge, joint district judge and chief judge of a small cause court.

(3) Every Tribunal shall consist of a single member selected by the Election Commission from any of the lists maintained by it under sub-section (2):

Provided that where the petition is in respect of an election to the Legislative Assembly or Legislative Council of a State, no person who is a district judge in another State shall be selected for appointment as a member of the Tribunal except with the consent of the Government of that other State:

Provided further that if the Election Commission considers it expedient so to do, it may appoint a person who has been a judge of a High Court as the member of a Tribunal.

(4) If for any reason a vacancy occurs in the office of member of a Tribunal, the Election Commission shall, as soon as practicable, appoint a person to fill the vacancy in accordance with the foregoing provisions of this section ; and upon his joining the Tribunal, the trial of the petition shall be continued as if he had been on the Tribunal from the beginning:

Provided that the Tribunal may, if it thinks fit, recall and re-examine any of the witnesses already examined.]

Connected petitions to be referred to same Tribunal.

87. Where more petitions than one are presented in respect of the same election, the Election Commission shall refer all of them to the same Tribunal, which may, in its discretion, try them separately or in one or more groups.

Place of Trial.

88. The trial shall be held at such place as the Election Commission may appoint:

Provided that a Tribunal may, in its discretion, sit for any part of the trial at any other place in the State in which the election to which the petition relates has taken place.

Power of Election commission to withdraw and transfer petitions.

[1][**89.** The Election Commission may at any stage after notice to parties and, for reasons to be recorded, withdraw any petition pending before a Tribunal and transfer it for trial to another Tribunal constituted in accordance with the provisions of section 86 ; and upon such transfer, that Tribunal shall proceed with the trial from the stage at which it was withdrawn :

Provided that it may, if it thinks fit, recall and re-examine any of the witnesses already examined.]

Procedure before the Tribunal.

90. [2]* * *[3][(1)] Subject to the provisions of this Act and of any rules made thereunder, every election petition shall be tried by the Tribunal, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908 (5 of 1908), to the trial of suits:

[4]* * * * *

Provided[5]* * * that the Tribunal shall have the discretion to refuse for reasons to be recorded in writing to examine any witness or witnesses if it is of

1. Subs. by Act 27 of 1956, s. 50, for s. 89.
2. Sub-section (1) omitted by s. 51, *ibid.*
3. Sub-sections (2) and (3) re-numbered as sub-sections (1) and (2) by s. 51, *ibid.*
4. First proviso omitted by s. 51, *ibid.*
5. The word "further" omitted by s. 51, *ibid.*

the opinion that their evidence is not material for the decision of the petition or that the party tendering such witness or witnesses is doing so on frivolous grounds or with a view to delay the proceedings.

[3][(2)] The provisions of the Indian Evidence Act, 1872 (1 of 1872), shall, subject to the provisions of this Act, be deemed to apply in all respects to the trial of an election petition.

[1][(3)] The Tribunal shall dismiss an election petition which does not comply with the provisions of section 81, [2][or section 82] notwithstanding that it has not been dismissed by the Election Commission under section 85.

[3][*Explanation.*—An order of the Tribunal dismissing an election petition under this sub-section shall be deemed to be an order made under clause (*a*) of section 98.]

(4) Any candidate not already a respondent shall, upon application made by him to the Tribunal within fourteen days from the date of commencement of the trial and subject to the provisions of section 119, be entitled to be joined as a respondent.

Explanation.—For the purposes of this sub-section and of section 97, the trial of a petition shall be deemed to commence on the date fixed for the respondents to appear before the Tribunal and answer the claim or claims made in the petition.

(5) The Tribunal may, upon such terms as to costs and otherwise as it may deem fit, allow the particulars of any corrupt practice alleged in the petition to be amended or amplified in such manner as may in its opinion be necessary for ensuring a fair and effective trial of the petition, but shall not allow any amendment of the petition which will have the effect of introducing particulars of a corrupt practice not previously alleged in the petition.

(6) Every election petition shall be tried as expeditiously as possible and endeavour shall be made to conclude the trial within six months from the date of publication of the copy of the petition in the Official Gazette under sub-section (1) of section 86.]

Appearance before Tribunal.

91. Any appearance, application or act before the Tribunal may be made or done by the party in person or by a pleader duly appointed to act on his behalf.

Provided that it shall be open to the Tribunal to direct any party to appear in person whenever the Tribunal considers it necessary.

Powers of the Tribunal.

92. The Tribunal shall have the powers which are vested in a court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the following matters :—

(*a*) discovery and inspection ;
(*b*) enforcing the attendance of witnesses, and requiring the deposit of their expenses ;
(c) compelling the production of documents ;
(*d*) examining witnesses on oath ;
(*e*) granting adjournments ;
(*f*) reception of evidence taken on affidavit ; and
(*g*) issuing commissions for the examination of witnesses,

and may summon and examine *suo motu* any person whose evidence appears to

1. Subs. by Act 27 of 1956, s. 51, for sub-section (4).
2. Subs. by Act 40 of 1961, s. 19, for "section 82 or section 117" (w.e.f. 20-9-1961).
3. Ins. by Act 58 of 1958, s. 28.

it to be material; and shall be deemed to be a civil court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (5 of 1898).

Explanation.—For the purpose of enforcing the attendance of witnesses, the local limits to the jurisdiction of the Tribunal shall be the limits of the State in which the election was held.

Documentary evidence.

93. Notwithstanding any thing in any enactment to the contrary, no document shall be inadmissible in evidence at the trial of an election petition on the ground that it is not duly stamped or registered.

Secrecy of voting not to be infringed.

94. No witness or other person shall be required to state for whom he has voted at an election.

Answering of criminating questions and certificate of indemnity.

95. (1) No witness shall he excused from answering any question as to any matter relevant to a matter in issue in the trial of an election petition upon the ground that the answer to such question may criminate or may tend to criminate him, or that it may expose or may tend to expose him to any penalty or forfeiture:

Provided that—

(*a*) a witness who answers truly all questions which he is required to answer shall be entitled to receive a certificate of indemnity from the Tribunal; and

(*b*) an answer given by a witness to a question put by or before the Tribunal shall not, except in the case of any criminal proceeding for perjury in respect of the evidence, be admissible in evidence against him in any civil or criminal proceeding.

(2) When a certificate of indemnity has been granted to any witness, it may be pleaded by him in any court and shall be a full and complete defence to or upon any charge under Chapter IXA of the Indian Penal Code (45 of 1860), or Part VII of this Act arising out of the matter to which such certificate relates, but it shall not deemed to relieve him from any disqualification in connection with an election imposed by this Act or any other law.

Expenses of witnesses.

96. The reasonable expenses incurred by any person in attending to give evidence may be allowed by the Tribunal to such person, and shall, unless the Tribunal otherwise directs, be deemed to be part of the costs.

Recrimination when seat claimed.

97. (1) When in an election petition a declaration that any candidate other than the returned candidate has been duly elected is claimed, the returned candidate or any other party may give evidence to prove that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented calling in question his election:

Provided that the returned candidate or such other party as aforesaid shall not be entitled to give such evidence unless he has, within fourteen days from the date of[1][commencement of the trial], given notice to the Tribunal of his intention to do so and has also given the security and the further security referred to in sections 117 and 118 respectively.

(2) Every notice referred to in sub-section (1) shall be accompanied by the statement and[2]* * * particulars required by section 83 in the case of an election petition and shall be signed and verified in like manner.

1. Subs. by Act 27 of 1956, s. 52, for 'the publication of the election petition under section 90".

2. The words "list of" omitted by s. 52, *ibid.*

Decision of the Tribunal.

98. At the conclusion of the trial of an election petition the Tribunal shall make an order—

(*a*) dismissing the election petition ; or

(*b*) declaring the election of[3][all or any of the returned candidates] to be void ; or

(*c*) declaring the election of[3][all or any of the returned candidates] to be void and the petitioner or an other candidate to have been duly elected ; [4]* * *

[4]* * * * *

Other orders to be made by the Tribunal.

99. (1) At the time of making an order under section 98 the Tribunal shall also make an order—

[1][(*a*) where any charge is made in the petition of any corrupt practice having been committed at the election, recording—

(*i*) a finding whether any corrupt practice has or has not been proved to have been committed[2]* * * at the election, and the nature of that corrupt practice; and

(*ii*) the names of all persons, if any, who have been proved at the trial to have been guilty of any corrupt practice and the nature of that practice; and]

(*b*) fixing the total amount of costs payable, and specifying the persons by and to whom costs shall be paid:

Provided that[3][a person who is not a party to the petition shall not be named] in the order under sub-clause (*ii*) of clause (*a*) unless—

(*a*) he has been given notice to appear before the Tribunal and to show cause why he should not be so named; and

(*b*) if he appears in pursuance of the notice, he has been given an opportunity of cross-examining any witness who has already been examined by the Tribunal and has given evidence against him, of calling evidence in his defence and of being heard.

[4][(2) In this section and in section 100, the expression "agent" has the same meaning as in section 123.]

Grounds for declaring election to be void.

100. [5][(1) Subject to the provisions of sub-section (2) if the Tribunal is of opinion—

(*a*) that on the date of his election a returned candidate was not qualified, or was disqualified, to be chosen to fill the seat under the Constitution or this Act[6]* * *; or

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3. Subs. by s 58, *ibid*, for "the returned candidate".
4. The word "or" and clause (*d*) omitted by s. 58, *ibid*
1. Subs. by Act 27 of 1956, s. 54, for cl. (*a*).
2. The words "by, or with the consent of, any candidate or his agent" omitted by Act 58 of 1958, s. 29.
3. Subs. by Act 27 of 1956, s. 54, for "no person shall be named".
4. Subs. by s. 54, *ibid.*, for sub-section (2).
5. Subs. by s. 55, *ibid.*, for sub-sections (1) and (2).
6. The words "or the Government of Part C States Act, 1951 (49 of 1951)" omitted by the Adaptation of Laws (No. 2) Order, 1956.

(*b*) that any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent; or

(*c*) that any nomination has been improperly rejected; or

(*d*) that the result of the election, in so far as it concerns a returned candidate, has been materially affected—

(*i*) by the improper acceptance of any nomination, or

(*ii*) by any corrupt practice committed in the interests of the returned candidate[1][by an agent other than his election agent], or

(*iii*) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void, or

(*iv*) by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act,

the Tribunal shall declare the election of the returned candidate to be void.]

[2][(2)] If in the opinion of the Tribunal, a returned candidate has been guilty by an agent, other than his election agent, of any corrupt practice[3]* * * but the Tribunal is satisfied—

(*a*) that no such corrupt practice was committed at the election by the candidate or his election agent, and every such corrupt practice was committed contrary to the orders, and[4][without the consent], of the candidate or his election agent;

[5]* * * * *

(*c*) that the candidate and his election agent took all reasonable means for preventing the commission of corrupt[6]* * * practices at the election; and

(*d*) that in all other respects the election was free from any corrupt[6]* * * practice on the part of the candidate or any of his agents,

then the Tribunal may decide that the election of the returned candidate is not void.

Grounds for which a candidate other than the returned candidate may be declared to have been elected.

101. If any person who has lodged a petition has, in addition to calling in question the election of the returned candidate, claimed a declaration that he himself or any other candidate has been duly elected and the Tribunal is of opinion—

(*a*) that in fact the petitioner or such other candidate received a majority of the valid votes; or

(*b*) that but for the votes obtained by the returned candidate by corrupt [7]* * * practices the petitioner or such other candidate would have obtained a majority of the valid votes,

the Tribunal shall after declaring the election of the returned candidate to be void declare the petitioner or such other candidate, as the case may be, to have been duly elected.

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1. Subs. by Act 58 of 1958, s. 80, for certain words.
2. Sub-section (3) re-numbered as sub-section (2) by Act 27 of 1956, s. 55.
3. The words and figures "specified in section 128" omitted by s. 55, *ibid.*
4. Subs. by s. 55, *ibid.*, for "without the sanction or connivance".
5. Cl. (*b*) omitted by Act 58 of 1958, s. 80.
6. The words "or illegal" omitted by Act 27 of 1956, s. 55.
7. The words "or illegal" omitted by Act 27 of 1956, s. 55.

Procedure in case of an equality of votes.

102. If during the trial of an election petition it appears that there is an equality of votes between any candidates at the election and that the addition of a vote would entitle any of those candidates to be declared elected, then—

(*a*) any decision made by the returning officer under the provisions of this Act shall, in so far as it determines the question between those candidates, be effective also for the purposes of the petition; and

(*b*) in so far as that question is not determined by such a decision, the Tribunal shall decide between them by lot and proceed as if the one on whom the lot then falls had received an additional vote.

Communication of orders to the Election Commission and the transmission of the records of the case.

103. The Tribunal shall after announcing the orders made under sections 98 and 99, send a copy thereof to the Election Commission and the records of the case to the district judge of the district within the place of trial appointed under section 88 is situate, or if such place is in a presidency-town, to the chief judge of the court of small causes having jurisdiction there, as the case may be.

104. [*Difference of opinion among the members of the Tribunal.*] *Rep. by the Representation of the People (Second Amendment) Act*, 1956 (27 *of* 1956), *s.* 57,

105. [*Orders of the Tribunal to be final and conclusive.*] *Rep. by s.* 58. ibid.

Transmission of order to the appropriate authority, etc., and its publication.

106. As soon as may be after the receipt of any order made by the Tribunal under section 98 or section 99, the Election Commission shall forward copies of the order to the appropriate authority and, in the case where such order relates to an election[1] * * * to a House of Parliament or to an election to the House or a House of the Legislature of a State, also to the Speaker or Chairman, as the case may be, of the House concerned and[2] [shall cause the order to be published—

(*a*) where the order relates to an election to a House of Parliament, in the Gazette, of India as well as in the Official Gazette of the State concerned; and

(*b*) where the order relates to an election to the House or a House of the Legislature of the State, in the Official Gazette of the State.]

Effect of orders of the Tribunal.

[3][**107.** (1) Every order of the Tribunal under section 98 or section 99 shall take effect as soon as it is pronounced by the Tribunal.

(2) Where by an order under section 98 the election of a returned candidate is declared to be void, acts and proceedings in which that returned candidate has, before the date thereof, participated as a member of Parliament or as a member of the Legislature of a State shall not be invalidated by reason of that order nor shall such candidate be subjected to any liability or penalty on the ground of such participation.]

CHAPTER IV.—*Withdrawal and Abatement of Election Petitions*

Withdrawal of petitions before appointment of Tribunal.

108. An election petition may be withdrawn only by leave of the Election Commission if an application for its withdrawal is made before any Tribunal has been appointed for the trial of such petition.

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1. The words and brackets "(other than a primary election)" omitted by Act 27 of 1956, s. 59.
2. Subs. by s. 59, *ibid.*, for certain words.
3. Subs. by s. 60, *ibid.*, for s. 107.

Withdrawal of petitions after appointment of Tribunal.

109. (1) Where an application for withdrawal of an election is made after a Tribunal has been appointed for the trial of such petition, the election petition may be withdrawn only by leave of the Tribunal.

(2) Where an application for withdrawal is made under sub-section (1), notice thereof fixing a date for the hearing of the aplication shall be given to all other parties to the petition and shall be published in the Official Gazette.

Procedure for withdrawal of petitions before the the Election Commission or the Tribunal.

110. (1) If there are more petitioners than one, no application to withdraw an election petition shall be made except with the consent of all the petitioners.

(2) No application for withdrawal shall be granted if in the opinion of the Election Commission or of the Tribunal, as the case may be, such application has been induced by any bargain or consideration which ought not to be allowed,

(3) If the application is granted—

(*a*) the petitioner shall, where the application has been made to the Tribunal, be ordered to pay the costs of the respondents theretofore incurred or such portion thereof as the Tribunal may think fit;

(*b*) notice of the withdrawal shall be published in the Official Gazette by the Election Commission or by the Tribunal, as the case may be;

(*c*) a person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner in place of the party withdrawing, and upon compliance with the conditions of section 117 as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the Tribunal may think fit.

Report of withdrawal by the Tribunal to the Election Commission.

111. When an application for withdrawal is granted by the Tribunal and no person has been substituted as petitioner under clause (*c*) of sub-section (3) of section 110, in place of the party withdrawing, the Tribunal shall report the fact to the Election Commission[1][and thereupon the Election Commission shall publish the report in the Official Gazette].

Abatement of election petitions.

112. An election petition shall abate only on the death of a sole petition or of the survivor of several petitioners.

Abatement of petition before appointment of Tribunal.

113. If an election petition abates under section 112 before a Tribunal has been appointed for the trial of the petition, notice of the abatement shall be published in the Official Gazette by the Election Commission.

Abatement of petition after appointment of Tribunal.

114. Where an election petition abates under section 112 after a Tribunal has been appointed for the petition, notice of abatement shall be published in the Official Gezette by the Tribunal.

Substitution on death of petitioner.

115. After a notice of the abatement of an election petition is published under section 113 or section 114, any person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner and upon compliance with the conditions of section 117 as to security shall be entitled to be so substituted and to continue the proceedings upon such terms as the Tribunal may think fit.

1. Ins. by Act 27 of 1956, s. 61.

Abatement or substitution on death of respondent.

116. If before the conclusion of the trial of an election petition, the sole respondent dies or gives notice that he does not intend to oppose the petition or any of the respondents dies or gives such notice and there is no other respondent who is opposing the petition, the Tribunal shall cause notice of such event to be published in the Official Gazette, and thereupon any person who might have been a petitioner may, within fourteen days of such publication, apply to be substituted in place of such respondent to oppose the petition, and shall be entitled to continue the proceedings upon such terms as the Tribunal may think fit.

[1][CHAPTER IVA.—*Appeals*

Appeals against orders of Election Tribunals.

116A. (1) An appeal shall lie from every order made by a Tribunal under section 98 or section 99 to the High Court of the State in which the Tribunal is situated.

(2) The High Court shall, subject to the provisions of this Act, have the same powers, jurisdiction and authority, and follow the same procedure, with respect to an appeal under this Chapter as if the appeal were an appeal from an original decree passed by a civil court situated within the local limits of its civil appellate jurisdiction:

Provided that where the High Court consists of more than two judges every appeal under this Chapter shall be heard by a bench of not less than two judges.

(3) Every appeal under this Chapter shall be preferred within a period of thirty days from the date of the order of the Tribunal under section 98 or section 99:

Provided that the High Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within such period.

(4) Where an appeal has been preferred against an order made under clause (*b*) of section 98[1][or section 99], the High Court may, on sufficient cause being shown, stay operation of the order appealed from and in such a case the order shall be deemed never to have taken effect under sub-section (1) of section 107 [2][and a copy of the stay order shall immediately be sent by the High Court to the Election Commission and the Speaker or Chairman, as the case may be of the House of Parliament or of the State Legislature concerned].

(5) Every appeal shall be decided as expeditiously as possible and evdeavour shall be made to determine it finally within three months from the date on which the memorandum of appeal is presented to the High Court.

[2][(6) As soon as an appeal is decided, the High Court shall intimate the substance of the decision to the Election Commission and the Speaker or Chairman, as the case may be, of the House of Parliment or of the State Legislature concerned, and as soon as may be thereafter, shall send to the

1. Ins. by Act 27 of 1956, s. 62.

1. Ins. by Act 40 of 1961. s. 20 (w.e,f. 20-9-1961),

2. Ins. by Act 58 of 1958, s. 61.

Election Commission an authenticated copy of the decision; and upon its receipt, the Election Commission shall—

(*a*) forward copies thereof to the authorities to which copies of the order of the Tribunal were forwarded under section 106, and

(*b*) csuse the decision to be published in the gazette or gazettes in which that order was published under the said section.]

Finality of orders and decisions.

116B. The decision of the High Court on appeal under this Chapter and subject only to such decision, the order of the Tribunal under section 98 or section 99 shall be final and conclusive.]

CHAPTER V.—*Costs and Security for Costs*

Deposit of security.

117. The petitioner shall enclose with the petition a Government Treasury receipt showing that a deposit of[1] [two thousand rupees] has been made by him either in a Government Treasury or in the Reserve Bank of India in favour of[2]* * * the Election Commission as security for the costs of petition.

Further security for costs.

118 During the course of the trial of an election petition the Tribunal may at any time call upon the petitioner to give such further security for costs as it may direct, and may, if he fails to do so, dismiss the petition.

Security for costs from a respondent.

119. No person shall be entitled to be joined as a respondent under[3] [sub-section (4)] of section 90 unless he has given such security for costs as the Tribunal may direct.

Security for costs of appeal.

[4][**119A.** Every person who prefers an appeal under Chapter IVA shall enclose with the memorandum of appeal a Government Treasury receipt showing that a deposit of five hundred rupees has been made by him either in a Government Treasury or in the Reserve Bank of India in favour of[5]* * * the Election Commission as security for the costs of the appeal.]

Costs.

120. (1) Costs including pleaders' fees shall be in the discretion of the Tribunal:

[6][Provided that where a petition is dismissed under clause (*a*) of section 98, the returned candidate shall be entitled to the costs incurred by him in contesting the petition and accordingly the Tribunal shall make an order for costs in favour of the returned candidate.]

(2) The Tribunal may allow interest on costs at a rate not exceeding three per cent. per annum, and such interest shall be added to the costs.

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1 Subs. by Act 40 of 1961, s. 21, for "one thousand rupees" (w.e.f. 20-9-1961).

2. The words "the Secretary to" omitted by Act 58 of 1958, s. 82.

3. Subs. by Act 27 of 1956, s. 68, for "sub-section (1)".

4. Ins. by s. 64, *ibid.*

5. The words "the Secretary to" omitted by Act 58 of 1958, s. 88.

6. Ins. by Act 40 of 1961, s. 22 (w.e.f. 20 9-1961).

Payment of costs out of security deposits and return of such deposits.

121. (1) If in any order as to costs under the provisions of this Part there is a direction for payment of costs by any party to any person, such costs shall, if they have not been already paid, be paid in full, or so far as possible, out of the security deposit and the further security deposit, if any, made by such party under this Part, on an application made in writing in that behalf[1] [within a period of one year, from the date of such order] to the Election Commission by the person in whose favour the costs have been awarded.

(2) If there is any balance left of any of the said security deposits after payment under sub-section (1) of the costs referred to in that sub-section, such balance, or where no costs have been awarded or no application as aforesaid has been made within the said period of[2][one year], the whole of the said security deposits may, on an application made in that behalf in writing to the Election Commission by the person by whom the deposits have been made, or if such person dies after making such deposits, by the legal representative of such person, be returned to the said person or to his legal representative, as the case may be.

Execution of orders as to costs.

122. Any order as to costs under the provisions of this Part may be produced before the principal civil court of original jurisdiction within the local limits of whose jurisdiction any person directed by such order to pay any sum of money has a place of residence or where such place is within a presidency-town, before the court of small causes having jurisdiction there, and such court shall execute the order or cause the same to be executed in the same manner and by the same procedure as if it were a decree for the payment of money made by itself in a suit:

Provided that where any such costs or any portion thereof mny be recovered by an application made under sub-section (1) of section 121, no application shall lie under this section[3][within a period of one year from the date of such order] unless it is for the recovery of the balance of any costs which has been left unrealised after an application has been made under the sub-section owing to the insufficiency of the amount of the security deposits referred to in that sub-section.

PART VII

[1][CORRUPT PRACTICES AND ELECTORAL OFFENCES]

[2][CHAPTER I.—*Corrupt Practices*

Corrupt practices.

123. The following shall be deemed to be corrupt practices for the purposes of this Act:

[3][(1) "Bribery", that is to say,

(A) any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his election agent of any

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1. Subs. by Act 58 of 1958, s. 84, for "within a period of six months from the publication of such order under section 106".
2. Subs. by s. 84, *ibid.*, for "six months".
3. Subs. by s. 85, *ibid.*, for "within a period of six months from the date of publication of such order section 106.'.
1. Subs. by Act 27 of 1956, s. 65, for "CORRUPT AND ILLEGAL PRACTICES AND ELECTOR OFFENCES".
2. Subs. by s. 66, *ibid.*, for Chapters I and II (ss. 123 to 125).
3. Subs. by Act 58 of 1958, s. 86, for cl. (1).

gratification, to any person whomsoever, with the object, directly or indirectly of inducing—

(*a*) a person to stand or not to stand as, or to withdraw from being a candidate at an election, or

(*b*) an elector to vote or refrain from voting at an election, or as a reward to—

(*i*) a person for having so stood or not stood, or for having withdrawn his candidature; or

(*ii*) an elector for having voted or refrained from voting;

(B) the receipt of, or agreement to receive, any gratification, whether as a motive or a reward—

(*a*) by a person for standing or not standing as, or for withdrawing from being, a candidate; or

(*b*) by any person whomsoever for himself or any other person for voting or refraining from voting, or inducing or attempting to induce any elector to vote or refrain from voting, or any candidate to withdraw his candidature.

Explanation. For the purposes of this clause the term "gratification" is not restricted to pecuniary gratifications or gratifications estimable in money and it includes all forms of entertainment and all forms of employment for reward but it does not include the payment of any expenses *bona fide* incurred at, or for the purpose of, any election and duly entered in the account of election expenses referred to in section 78.]

(2) Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person[1] [with the consent of the candidate or his election agent], with the free exercise of any electoral right:

Provided that—

(*a*) without prejudice to the generality of the provisions of this clause any such person as is referred to therein who—

(*i*) threatens any candidate or any elector, or any person in whom a candidate or an elector is interested, with injury of any kind including social ostracism and ex-communication or expulsion from any caste or community; or

(*ii*) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause;

(*b*) a declaration of public policy, or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.

[2][(3) The appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to, religious symbols or the use of, or appeal to, national

1. Ins. by Act 58 of 1958, s. 86.

2. Subs. by Act 40 of 1961, s. 28, for cl. (3) (w.e.f. 20-9-1961).

symbols, such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

(3A) The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community, or language, by a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the prospect of the election of that candidate or for prejudicially affecting the election of any candidate.]

(4) The publication by a candidate or his agent or by any other person, [1][with the consent of a candidate or his election agent], of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature, or withdrawal,[1]* * * of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.

(5) The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person[2][with the consent of a candidate or his election agent], for the conveyance of any elector (other than the candidate himself, the members of his family or his agent) to or from any polling station provided under section 25 or a place fixed under sub-section (1) of section 29 for the poll:

Provided that the hiring of a vehicle or vessel by an elector or by several electors at their joint costs for the purpose of conveying him or them to and from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power:

Provided further that the use of any public transport vehicle or vessel or any tramcar or railway carriage by any elector at his own cost for the purpose af going to or coming from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause.

Explanation.—In this clause, the expression "vehicle" means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise.

(6) The incurring or authorizing of expenditure in contravention of section 77.

(7) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or, by any other person[2][with the consent of a candidate or his election agent], any assistance (other than giving of vote) for the furtherance of the prospects of that candidate's election, from any person in the service of the Government and belonging to any of the following classes, namely:

(*a*) gazetted officers:

(*b*) stipendiary judges and magistrates;

(*c*) members of the armed forces of the Union;

(*d*) members of the police forces;

(*e*) excise officers;

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1. The words "or retirement from contest" omitted by Act 58 of 1958, s. 86.

2. Ins. by s. 86, *ibid.*

[1][(*f*) revenue officers other than village revenue officers known as lambardars, malguzars, patels, deshmukhs or by any other name, whose duty is to collect land revenue and who are remunerated by a share of, or commission on, the amouut of land revenue collected by them but who do not discharge any police functions, and]

(*g*) such other class of persons in the service of the Government as may be prescribed.

Explanation.—(1) In this section the expression "agent" includes an election agent, a polling agent and any person who is held to have acted as an agent in connection with the election with the consent of the candidate.

(2) For the purposes of clause (7), a person shall be deemed to assist in the furtherance of the prospects of a candidate's election if he acts as an election agent, or a polling agent or a counting agent of that candidate.

CHAPTER III.—*Electoral Offences*

Promoting enmity between classes in connection with election.

[2][**125.** Any person who in connection with an election under this Act promotes or attempt to promote on grounds of religion, race, caste, community or langnage, feelings of enmity or hatred between different classes of the citizens of India shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.]

Prohibition of public meetings on the day preceding the election day and on the election day.

126. [3][(1) No person shall convene, hold or attend any public meeting within any polling area within twenty-four hours before the date of commencement of the poll or on the date or dates on which a poll is taken for an election in that polling area.]

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to two hundred and fifty rupees.

Disturbances at election meetings.

127. (1) Any person who at a public meeting to which this section applies, acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together, shall be punishable with fine which may extend to two hundred and fifty rupees.

(2) This section applies to any public meeting of a political character held in any constituency between the date of the issue of a notification under this Act calling upon the constituency to elect a member or members and the date on which such election is held.

(3) If any police officer reasonably suspects any person of committing an offence under sub-section (1), he may, if requested so to do by the chairman of the meeting, require that person to declare to him immediately his name and address and, if that person refuses or fails so to declare his name and address, or if the police officer reasonably suspects him of giving a false name or address, the police officer may arrest him without warrant.

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1. Subs. by Act 58 of 1958, s. 86, for sub-clause (*f*).
2. Ins. by Act 40 of 1961, s 24 (w.e.f. 20-9-1961).
3. Subs. by s. 25, *ibid.*, for sub-section (1) (w.e.f. 20-9-1961).

Restrictions on the printing of pamphlets, posters, etc.

[1][127A. (1) No person shall print or publish, or cause to be printed or published, any election pamphlet or poster which does not bear on its face the names and addresses of the printer and the publisher thereof.

(2) No person shall print or cause to be printed any election pamphlet or poster—

(*a*) unless a declaration as to the identity of the publisher thereof, signed by him and attested by two persons to whom he is personally known, is delivered by him to the printer in duplicate; and

(*b*) unless, within a reasonable time after the printing of the document, one copy of the declaration is sent by the printer, together with one copy of the document,—

(*i*) where it is printed in the capital of the State, to the chief Electoral Officer: and

(*ii*) in any other case, to the district magistrate of the district in which it is printed.

(3) For the purposes of this section,

(*a*) any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be printing and the expression 'printer' shall be construed accordingly ; and

(*b*) 'election pamphlet or poster' means any printed pamphlet, hand-bill or other document distributed for the purpose of promoting or prejudicing the election of a candidate or group of candidates or any placard or poster having reference to an election, but does not include any hand-bill, placard or poster merely announcing the date, time, place and other particulars of an election meeting or routine instructions to election agents or workers.

(4) Any person who contravenes any of the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.]

Maintenance of secrecy of voting.

128. (1) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain, and aid in maintaining, the secrecy of the voting and shall not (except of some purpose authorized by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.

Officers, etc, at elections not to act for candidates or to influence voting.

129. (1) No person who is a returning officer, or an assistant returning officer, or a presiding or polling officer at an election, or an officer or clerk appointed by the returning officer or the presiding officer to perform any duty in connection with an election shall in the conduct or the management of the election do any act (other than the giving of vote) for the furtherance of the prospects of the election of a candidate.

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1. Ins. by Act 40 of 1961 s. 23 (w.e.f. 20-9-1961).

(2) No such person as aforesaid, and no member of a police force shall endeavour—

(*a*) to persuade any person to give his vote at an election, or

(*b*) to dissuade any person from giving his vote at an election, or

(*c*) to influence the voting of any person at an election in any manner.

(3) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment which may extend to six months or with fine or with both.

Prohibition of canvassing in or near polling stations.

130. (1) No person shall, on the date or dates on which a poll is taken at any polling station, commit any of the following acts within the polling station or in any public or private place within a distance of one hundred yards to the polling station, namely:—

(*a*) canvassing for votes; or

(*b*) soliciting the vote of any elector; or

(*c*) persuading any elector not to vote for any particular candidate; or

(*d*) persuading any elector not to vote at the election; or

(*e*) exhibiting any notice or sign (other than an official notice) relating to the election.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to two hundred and fifty rupees.

(3) An offence punishable under this section shall be cognizable.

Penalty for disorderly conduct in or near polling stations.

131. (1) No person shall, on the date or dates on which a poll is taken at any polling station,—

(*a*) use or operate within or at the entrance of the polling station, or in any public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loudspeaker, or

(*b*) shout, or otherwise act in a disorderly manner within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof,

so as to cause annoyance to any person visiting the polling station for the poll, or so as to interfere with work of the officers and other persons on duty at the polling station.

(2) Any person who contravenes, or wilfully aids or abets the contravention of, the provisions of sub-section (1) shall be punishable with imprisonment which may extend to three months or with fine or with both.

(3) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section, he may direct any police officer to arrest such person, and thereupon the police officer shall arrest him.

(4) Any police officer may take such steps, and use force, as may be reasonably necessary for preventing any contravention of the provisions of sub-section (1), and may seize any apparatus used for such contravention.

Penalty for misconduct at the polling station.

132. (1) Any person who during the hours fixed for the poll at any polling station misconducts himself or fails to obey the lawful directions of the presiding officer may be removed from the polling station by the presiding officer or by any police officer on duty or by any person authorized in this behalf by such presiding officer.

(2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any elector who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

(3) If any person who has been so removed from a polling station re-enters the polling station without the permission of the presiding officer, he shall be punishable with imprisonment for a term which may extend to three months, or with fine or with both.

(4) An offence punishable under sub-section (3) shall be cognizable.

Penalty for illegal hiring or procuring of conveyances at elections.

133. If any person is guilty of any such corrupt practice as is specified in [1][clause (5)] of section 123 at or in connection with an election, he shall be punishable with fine which may extend to two hundred and fifty rupees.

Breaches of official duty in connection with elections.

134. (1) If any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall be punishable with fine which may extend to five hundred rupees.

(2) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.

(3) The persons to whom this section applies are the[2] * * * returning officers, assistant returning officers, presiding officers, polling officers and any other person appointed to perform any duty in connection with[3] * * * the receipt of nominations or withdrawal of candidatures, of the recording or counting of votes at an election; and the expression "official duty" shall for the purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Act[4] * * *

Removal of ballot papers from polling station to be an offence.

135. (1) Any person who at any election fraudulently takes, or attempts to take, a ballot paper out of a polling station, or wilfully aids or abets the doing of any such act, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

(2) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (1), such officer may, before such person leaves the polling station, arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer.

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1. Subs. by Act 27 of 1956, s. 68; for "clause (6)".
2. The words "Electoral Registration Officers, Assistant Electoral Registration Officers" omitted by 58 of 1958, s. 87.
3. The words "the preparaion of an electoral roll" omitted by Act 58 of 1958, s. 87.
4. The words and figures "or by or under the Representation of the People Act, 1950" omitted by s. 87, *ibid*.

Provided that when it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

(3) Any ballot paper found upon the person arrested on search shall be made over for safe custody to a police by the presiding officer, or when the search is made by a police officer, shall be kept by such officer in safe custody.

(4) An offence punishable under sub-section (1) shall be cognizable.

Other offences and penalties therefor.

136. (1) A person shall be guilty of an electoral offence if at any election he—

(*a*) fraudulently defaces or fraudulently destroys any nomination paper; or

(*b*) frandulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of a returning officer; or

(*c*) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper or any declaration of identity or official envelope used in connection with voting by postal ballot; or

(*d*) without due authority supplies any ballot paper to any [1][or receives any ballot paper from any person or is in possession of any ballot paper]; or

(*e*) fraudulently puts into any ballot box anything other than the ballot paper which he is authorized by law to put in; or

(*f*) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election; or

(*g*) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or wilfully aids or abets the doing of any such acts.

(2) Any person guilty of an electoral[1] offence under this section shall—

(*a*) if he is a returning officer or an assistant returning officer or a presiding officer at a polling station or any other officer or clerk employed on official duty in connection with the election, be punishable with imprisonment for a term which may extend to two years or with fine or with both;

(*b*) if he is any other person, be punishable with imprisonment for a term which may extend to six months or with fine or with both.

(3) For the purposes of this section, a person shall be deemed to be on official duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election, but the expression "official duty" shall not include any duty imposed otherwise than by or under this Act[2]* * *.

(4) An offence punishable under clause (*b*) of sub-section (2) shall be cognizable.

Prosecution regarding certain offences.

137. (1) If the Election Commission or a Regional Commissioner appointed under clause (4) of article 324 or the Chief Electoral Officer of the State has reason to believe that any offence punishable under section 129, or under section 134 or under clause (*a*) of sub-section (2) of section 136 has been committed in

1. Ins. by Act 27 of 1956, s. 70.

2. The words and figures "or by or under the Representation of the People Act, 1950" omitted by Act 58 of 1958, s. 88.

reference to any election within a State, it shall be the duty of the Election Commission the Regional Commissioner or the Chief Electoral Officer, as the case may be, to cause such inquiries to be made and such prosecutions to be instituted as the circumstances of the case may appear to it or him to require.

(2) No court shall take cognizance of any offence punishable under section 129 or under section 134 or under clause (*a*) of sub-section (2) of section 136 unless there is a complaint made by order of, or under authority from, the Election Commission or a Regional Commissioner appointed under clause (4) of article 324 or the Chief Electoral Officer of the State concerned,

138. [*Amendment of Act 5 of 1898.*] *Rep. by the Repealing and Amending Act, 1957 (36 of 1957), s. 2 and Sch. I.*

PART VIII

DISQUALIFICATIONS

CHAPTER I. *Disqualification for Membership*

Offences entailing disqualification.

139. (1) The following offences shall entail disqualification for membership of Parliament and of the Legislature of every State, namely:—

(*a*) offences punishable with imprisonment under section 171E or section 171F of the Indian Penal Code (Act 45 of 1860), and

(*b*) offences punishable under[1] [section 125 or section 135] or clause (*a*) of sub-section (2) of section 136 of this Act.

(2) The period of such disqualification shall be six years from the date of the conviction for the offence.

Corrupt practices entailing disqualification.

[2][**140.** The corrupt practices specified in section 123 shall entail disqualification for membership of Parliament and of the Legislature of every State for a period of six years counting from the date on which the finding of the Election Tribunal as to such practice takes effect under the Act.]

Removal, or reduction of period, of disqualifications.

[3][**140A.** The Election Commission may, for reasons to be recorded, remove any disqualification under this Chapter or reduce the period of any such disqualification.]

CHAPTER II. *Disqualifications for Voting*

Disqualification arising out of conviction and corrupt practices.

141. If any person after the commencement of this Act—

(*a*) is convicted of an offence punishable with imprisonment under section 171E or section 171F of the Indian Penal Code (Act 45 of 1860), or of an offence punishable under [4][section 125 or section 135] or clause (*a*) of sub-section (2) of section 136 of this Act, or

1. Subs by Act 40 of 1961, s. 27, for "section 135" (w.e.f, 20-9-1961).
2. Subs. by Act 27 of 1956, s. 71, for s. 140.
3. Ins. by s. 72, *ibid.*
4. Subs. by Act 40 of 1961, s. 28, for "section 135" (w.e.f. 20-9-1961).

(*b*) is, upon the trial of an election petition under Part VI. found guilty of any corrupt practice,

he shall, for a period of six years from the date of the conviction or from the date on which such finding takes effect, be disqualified for voting at any election.

142. [*Disqualification arising out of illegal practices.*] *Rep. by the Representation of the People (Second Amendment) Act* 1956 (27 *of* 1956), *s.* 73.

143. [*Disqualification arising out of failure to lodge return of election expenses.*] *Rep. by s.* 74, ibid.

Removal of disqualifications.

144. Any disqualification under this Chapter may be removed by the Election Commission for reasons to be recorded by it in writing.

CHAPTER III. *Other Disqualifications*

Disqualification for being an election agent.

145. Any person who is for the time being disqualified under the foregoing provisions of this Part for being a member of either House of Parliament or the House or either House of the Legislature of a State or for voting at elections, shall, so long as the disqualification subsists, also be disqualified for being an election agent at any election.

146. [*Disqualification for holding certain offices.*] *Rep. by the Representation of the People (Second Amendment) Act*, 1956 (27 *of* 1956), *s.* 75.

PART IX

BYE-ELECTIONS

Casual vacancies in the Council of States.

147. [1][(1)] When before the expiration of the term of office of a member elected to the Council of States, his seat becomes vacant or is declared vacant or his election to the Council of States is declared void, the Election Commission shall by a notification in the Gazette of India call upon the elected members of the Legislative Assembly or the members of the electoral college concerned[2]* * * as the case may be, to elect a person for the purpose of filling the vacancy so caused before such date as may be specified in the notification and the provisions of this Act and of the rules and orders made thereunder shall apply, as far as may be, in relation to the election of a member to fill such vacancy.

[3][(2) As soon as may be after the date of commencement of the Constitution (Seventh Amendment) Act, 1956, bye-elections shall be held to fill the vacancies existing on that date in the seats allotted to the States of Assam, and Uttar Pradesh and the Union territories of Delhi, Himachal Pradesh and Manipur.]

148. [*Casual vacancies in the electoral colleges for certain Union territories.*] *Rep. by the Territorial Councils Act*, 1956 (103 *of* 1956), *s.* 66.

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1. S. 147 re-unmberead as sub-section (1) of that section by the Adaptation of Laws (No. 2) Order, 1956.
2. The words "or the elected members of the Coorg Legislative Cour cil" omitted by Act 49 of 1951, s. 44 and Sch. V.
3. Ins. by the Adaptation of Laws (No. 2) Order, 1956.

Casual vacancies in the House of the People.

149. (1) When the seat of a member elected to the House of the People becomes vacant or is declared vacant or his election to the House of the people is declared void, the Election Commission shall, subject to the provisions of sub-section (2), by a notification in the Gazette of India, call upon the Parliamentary constituency concerned to elect a person for the purpose of filling the vacancy so caused before such date as may be specified in the notification, and the provisions of this Act and of the rules and orders made thereunder shall apply, as far as may be, in relation to the election of a member to fill such vacancy.

(2) If the vacancy so caused be a vacancy in a seat reserved in any such constituency for the Scheduled Castes or for any Scheduled Tribes, the notification issued under sub-section (1) shall specify that the person to fill that seat shall belong to the Scheduled Castes or to such Scheduled Tribes, as the case may be.

Casual vacancies in the State Legislative Assemblies.

150. (1) When the seat of a member elected to the Legislative Assembly of a State becomes vacant or is declared vacant or his election to the Legislative Assembly is declared void, the Election Commission shall, subject to the provisions of sub-section (2), by a notification in the Official Gazette, call upon the Assembly constituency concerned to elect a person for the purpose of filling the vacancy so caused before such date as may be specified in the notification, and the provisions of this Act and of the rules and orders made thereunder shall apply, as far as may be, in relation to the election of a member to fill such vacancy.

(2) If the vacancy so caused be a vacany in a seat reserved in any such constituency for the Scheduled Castes or for any Scheduled Tribes, the notification issued under sub-section (1) shall specify that the person to fill that seat shall belong to the Scheduled Castes or to such Scheduled Tribes, as the case may be.

Casual vacancies in the State Legislative Councils.

151. When before the expiration of the term of office of a member elected to the Legislative Council of a State, his seat becomes vacant or is declared vacant or his election to Legislative Council is declared void, the Election Comission shall, by a notification in the Official Gazette, call upon the Council constituency concerned or the members of the Legislative Assembly of the State, as the case may be, to elect a person for the purpose of filling the vacancy so caused, before such date as may be specified in the notification, and the provisions of this Act and of the rules and orders made thereunder shall apply as far as may be, in relation to the election of a member to fill such vacany.

PART X

MISCELLANEOUS

List of members of the State Legislative Assemblies and electoral colleges to be maintained by the returning officers concerned.

152. (1) The returning officer for an election by the elected members of the Legislative Assembly of a State to fill a seat or seats in the Council of States or for an election by the members of the Legislative Assembly of a State to fill a seat or seats in the Legislative Council of the State shall, for the purposes of such election, maintain in his office in the prescribed manner and form a list of elected members or a list of members, as the case may be, of that Legislative Assembly.

(2) The returning officer for an election by the members of the electoral college for a [1][Union territory] [2]* * * [3]* * * to fill a seat or seats in the Council of States shall, for the purposes of such election, maintain in his office in the prescribed manner and form a list of members of that electoral college [4]* * *

(3) Copies of the lists referred to in sub-sections (1) and (2) shall be made available for sale.

Extension for time for completion of election

[1][**153.** It shall be competent for the Election Commission for reasons which it considers sufficient, to extend the time for the completion of any election by making necessary amendments in the notification issued by it under section 30 or sub-section (1) of section 39.]

Term of office of members of the Council of States.

154. [2][(1) Subject to the provisions of sub-sections (2) and (2A), the term of office of a member of the Council of States, other than a member chosen to fill a casual vacancy, shall be six years.]

(2) [3]* * * Upon the first constitution of the Council of States the President shall, after consultation with the Election Commission, make by order such provision as he thinks fit for curtailing the term of office of some of the members then chosen in order that, as nearly as may be, one-third of the members holding seats of each class shall retire in every second year thereafter.

[4][(2A) In order that, as nearly as may be, one-third of the members may retire on the second day of April, 1958, and on the expiration of every second year thereafter, the President shall, as soon as may be after the commencement of the Constitution (Seventh Amendment) Act, 1956, after consultation with the Election Commission, make by order such provisions as he thinks fit in regard to the terms of office of the members elected under sub-section (2) of section 147.]

(3) A member chosen to fill a casual vacancy shall be chosen to serve for the remainder of his predecessor's term of office.

Commencement of the term of office of members of the Council of States.

155. (1) The term of office of a member of the Council of States whose name is required to be notified in the Official Gazette under section 71 shall begin on the date of such notification.

(2) The term of office of a member of the Council of States whose name is not required to be notified under section 71 shall begin on the date of publication in the Official Gazette of the declaration containing the name of such person as elected under section 67 or of the notification issued under sub-clause (a) of clause (1) article 80 or under any other provision announcing the nomination of such person to the Council of States, as the case may be.

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1. Subs. by the Adaptation of Laws (No. 2) Order, 1956, for "Part C State".
2. The words "or group of such States" omitted by Act 27 of 1956, s. 77.
3. The words "or by the elected members of the Coorg Legislative Council" omitted by Act 49 of 1951, s. 44 and Sch. V.
4. The words "or a list of elected members of the Coorg Legislative Council, as the case may be" omitted by s. 44 and Sch. V. *ibid.*

1. Subs. by Act 27 of 1956, s. 78, for s. 153.
2. Subs. by the Adaptation of Laws (No. 2) Order, 1956, for sub-section (1).
3. The words "Subject as aforesaid, the term of office of a member of the Council of States, other than a member chosen to fill a casual vacancy, shall be six years, but" omitted, *ibid.*
4. Ins., *ibid.*

Term of office of members of State Legislative Councils.

156. (1) The term of office of a member of the Legislative Council of a State, other than a member chosen to fill a casual vacancy, shall be six years, but upon the first constitution of the Council the Governor[1]* * * shall, after consultation with the Election Commission, make by order such provision as he thinks fit for curtailing the term of office of some of the members then chosen in order that, as nearly as may be, one-third of the members holding seats of each class shall retire in every second year thereafter.

(2) A member chosen to fill a casual vacancy shall be chosen to serve for the remainder of his predecessor's term of office.

Commencement of the term of office of members of the Legislative Councils.

157. (1) The term of office of a member of the Legislative Council of a State whose name is required to be notified in the Official Gazette under[2][section 74] shall begin on the date of such notification.

(2) The term of office of a member of the Legislative Council of a State whose name is not required to be notified under [2][section 74] shall begin on the date of publication in the Official Gazette of the declaration containing the name of such person as elected under section 67 or of the notification issued under sub-clause (*e*) of clause (3) of article 171, announcing the nomination of such person to the Council, as the case may be.

Return or forfeiture of candidate's deposit.

[3][**158.** (1) The deposit made unde section 34 or under that section read with sub-section (2) of section 39 shall either be returned to the person making it or his legal representative or be forfeited to the appropriate authority in accordance with the provisions of this section.

(2) Except in cases hereafter mentioned in this section, the deposit shall be returned as soon as practicable after the result of the election is declared.

(3) If the candidate is not shown in the list of contesting candidates, or if he dies before the commencement of the poll, the deposit shall be returned as soon practicable after the publication of the list or after his death, as the case may be.

(4) Subject to the provisions of sub-section (3), the deposit shall be forfeited if at an election where a poll has been taken, the candidate is not elected and the number of valid votes polled by him does not exceed one-sixth of the total number of valid votes polled by all the candidates or in the case of election of more than one member at the election, one-sixth of the total number of valid votes so polled divided by the number of members to be elected.

Provided that where at an election held in accordance with the system of proportional representation by means of the single transferable vote, a candidate is not elected, the deposit made by him shall be forfeited if he does not get more than one-sixth of the number of votes prescribed in this behalf as sufficient to secure the return of a candidate.

(5) Notwithstanding anything in sub-sections (2), (3) and (4),—

(*a*) if at a general election, the candidate is a contesting candidate in more than one parliamentary constituency or in more than one assembly constituency, not more than one of the deposits shall be returned, and the others shall be forfeited;

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1. The words "or the Rajpramukh, as the case may be" omitted by the Adaptation of Laws (No. 2) Order, 1956.

2. Subs. by Act 27 of 1956, s. 79, for "section 75".

3. Subs. by Act 58 of 1958, s. 89, for s. 158.

(*b*) if the candidate is a contesting candidate at an election in more than one council constituency or at an election in a council constituency and at an election by the members of the State Legislative Assembly to fill seats in the Legislative Council, not more than one of the deposits shall be returned, and the others shall be forfeited.]

Staff of every local authority to be made avilable for election work.

159. Every local authority in a State shall, when so requested by [1]*** a Regional Commissioner appointed under clause (4) of article 324 or the Chief Electoral Officer of the State, make available to any returning officer such staff as may be necessary for the performance of any duties in connection with an election.

Requisitioniong of premises, vehicles, etc., for election purposes.

160. (1) If it apears to the State Government that in connection with an election held within the State—

(*a*) any premises are needed or are likely to be needed for the purpose of being used as a polling station or for the storage of ballot boxes after a poll has been taken, or

(*b*) any vehicle, vessel or animal is needed or is likely to be needed for the purpose of transport of ballot boxes to or from any polling station, or transport of members of the police force for maintaining order during the conduct of such election, or transport of any officer or other person for performance of any duties in connection with such election.

that Government may be order in writing requisition such premises, or such vehicle, vessel or animal, as the case may be, and may make such further orders as may appear to it to be necessary or expedient in connection with the requisitioning:

Provided that no vehicle, vessel or animal which is being lawfully used by a candidate or his agent for any purpose connected with the election of such candidate shall be requisitioned under this sub-section until the completion of the poll at such election.

(2) The requisition shall be effected by an order in writing addressed to the person deemed by the State Government to be the owner or person in possession of the property, and such order shall be served in the prescribed manner on the person to whom it is addressed.

(3) Whenever any property is requisitioned under sub-section (1), the period of such requisition shall not extend beyond the period for which such property is required for any of the purposes mentioned in that sub-section.

(4) In this section—

(*a*) "premises" means any land, building or part of a building and includes a hut, shed or other structure or any part thereof;

(*b*) "vehicle" means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise.

Payment of compensation.

161. (1) Whenver in pursuance of section 160 the State Government requisitions any premises, there shall be paid to the persons interested compensation the amount of which shall be determined by taking into consideration the following, namely:—

(*i*) the rent payable in respect of the premises or if no rent is so payable, the rent payable for similar premises in the locality;

1. The words "the Election Commission or" omitted by Act 27 of 1953, s. 81.

(*ii*) if in consequence of the requisition of the premises the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change:

Provided that where any person interested being aggrieved by the amount of compensation so determined makes an application within the prescribed time to the State Government for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the State Government may determine:

Provided further that where there is any dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation, it shall be referred by the State Government to an arbitrator appointed in this behalf by that Government for determination, and shall be determined in accordance with the decision of such arbitrator.

Explanation.—In this sub-section, the expression "person interested" means the person who was in actual possession of the premises requisitioned under section 160 immediately before the requisition, or where no person was in such actual possession, the owner of such premises.

(2) Whenever in pursuance of section 160 the State Government requisitions any vehicle, vessel or animal, there shall be paid to the owner thereof compensation the amount of which shall be determined by the State Government on the basis of the fares or rates prevailing in the locality for the hire of such vehicle, vessel or animal;

Provided that where the owner of such vehicle, vessel or animal being aggrieved by the amount of compensation so determined makes an application within the prescribed time to the State Government for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the State Government may determine:

Provided further that where immediately before the requisitioning the vehicle or vessel was by virtue of a hire purchase agreement in the possession of a person other than the owner, the amount determined under this sub-section as the total compensation payable in respect of the reqisition shall be apportioned between that person and the owner in such manner as they may agree upon, and in default of agreement, in such manner as an arbitrator appointed by the State Government in this behalf may decide.

Power to obtain information.

162. The State Government may with a view to requisitioning any property under section 160 or determining the copmensation payable under section 161, by order, require any person to furnish to such authority as may be specified in the order such information in his possession relating to such property as may be so specified.

Powers of entry into and inspection of premises, etc.

163. (1) Any person authorized in this behalf by the State Government may enter into any premises and inspect such premises and any vehicle, vessel or animal therein for the purpose of determining whether and if so in what manner, an order under section 160 should be made in relation to such premises, vehicle, vessel or animal, or with a view to securing compliance with any order made under that section.

(2) In this section, the expressions "premises" and "vehicle" have the same meanings in section 160.

Eviction from requisitioned premises.

164. (1) Any person remaining in possession of any requisitioned premises in contravention of any order made under section 160 may be summarily evicted from the premises by any officer empowered by the State Government in this behalf.

(2) Any officer so empowered may, after giving to any woman not appearing in public reasonable warning and facility to withdraw, remove or open any lock or bolt or break open any door of any building or do any other act necessary for effecting such eviction.

Release of premises from requisition.

165. (1) When any premises requisitioned under section 160 are to be released from requisition, the possession thereof shall be delivered to the person from whom possession was taken at the time when the premises were requisitioned or if there were no such person, to the person deemed by the State Government to be the owner of such premises, and such delivery of possession shall be a full discharge of the State Government from all liabilities in respect of such delivery, but shall not prejudice any rights in respect of the premises which any other person may be entitled by due process of law to enforce against the person to whom possession of the premises is so delivered.

(2) Where the person to whom possession of any premises requisitioned under section 160 is to be given under sub-section (1) cannot be found or is not readily ascertainable or has no agent or any other person empowered to accept delivery on his behalf, the State Government shall cause a notice declaring that such premises are released from requisition to be affixed on some conspicuous part of such premises and publish the notice in the Official Gazette.

(3) When a notice referred to in sub-section (2) is published in the Official Gazette, the premises specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof; and the State Government shall not be liable for any compensation or other claim in respect of such premises for any period after the said date.

Delegation of functions of the State Government with regard to requisitioning.

166. The State Government may, by notification in the Official Gazette, direct that any powers conferred or any duty imposed on that Government by any of the provisions of sections 160 to 165 shall, under such conditions, if any, as may be specified in the direction, be exercised or discharged by such officer or class of officers as may be so specified.

Penalty for contravention of any order regarding requisitioning

167. If any person contravenes any order made under section 160 or section 162, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

Special provisions with respect to Rulers of former Indian States.

168. (1) If the Ruler of a former Indian State is nominated as a candidate for any election under this Act, the provisions of sub-section (1) of section 87B, of the Code of Civil Procedure, 1908 (Act 5 of 1908) and of sub-sections (2) and (3) of section 197A of the Code of Criminal Procedure, 1898 (Act 5 of 1898), shall not apply in relation to such Ruler during the period commencing on the date of his nomination as such candidate and ending on the date on which the result of the election is published under section 67, and shall not apply thereafter in relation to any proceedings for questioning the validity or regularity of such election under Part VI of this Act or in relation to any criminal proceedings against such Ruler for any offence under Chapter IXA of

the Indian Penal Code (Act 45 of 1860) or Chapter III of Part VII of this Act alleged to have been committed by him at or in connection with such election.

(2) In this section—

(*a*) "candidate" has the same meaning as in section 79;

(*b*) "former Indian State" means any such Indian State as the Central Government may, by notification in the Official Gazette, specify for the purposes of this section;

(*c*) "Ruler", in relation to a former Indian State, means the person who for the time being is recognised by the President as the Ruler of that State for the Constitution.

PART XI

GENERAL

Power to make rules.

169. (1) The Central Government may, after consulting the Election Commission, by notification in the Official Gazette, make rules[1] for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the duties of presiding officers and polling officers at polling stations;

(*b*) the checking of voters by reference to the electoral roll;

(*c*) the manner in which votes are to be given both generally and in the case of illiterate voters or voters under physical or other disability;

(*d*) the manner in which votes are to be given by a presiding officer, polling officer, polling agent or any other person, who being an elector for a constituency is authorized or appointed for duty at a polling station at which he is not entitled to vote;

(*e*) the procedure to be followed in respect of the tender of vote by a person representing himself to be an elector after another person has voted as such elector;

(*f*) the procedure as to voting to be followed at elections held in accordance with the system of proportional representation by means of the single transferable vote;

(*g*) the scrutiny and counting of votes including cases in which a recount of the votes may be made before the declaration of the result of the election;

(*h*) the safe custody of ballot boxes, ballot papers and other election papers, the period for which such papers shall be preserved and the inspection and production of such papers;

(*i*) any other matter required to be prescribed by this Act.

[(3) Every rule made under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive

1. *See* the Conduct of Elections Rules, 1961.

sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree that the rule should be either modified or annulled, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule,][1]

Jurisdiction of civil courts barred.

170. No civil court shall have jurisdiction to question the legality of any action taken or of any decision given by the returning officer or by any other person appointed under this Act in connection with an election.

171. [*Repeal of Act* 39 *of* 1920.] *Rep. by the Repealing and Amending Act,* 1957 *(*36 *of* 1957*), s.* 2 *and Sch. I.*

2. THE COUNCIL OF STATES (TERM OF OFFICE OF MEMBERS) ORDER, 1952.[1]

In pursuance of sub-section (2) of section 154 of the Representation of the People Act, 1951 (XLIII of 1951), the President, after consultation with the Election Commission, hereby makes the following Order :—

1. This Order may be called the Council of States (Term of Office of Members) Order, 1952.

2. For the purposes of this Order, members of the Council of States shall be grouped as shown in the first column of the Schedule to this Order, and the total number of members of each group shall be divided into three categories as shown in the second, third and fourth columns of the said Schedule.

3. The member or members of each group to be placed in each of the said three categories shall be determined by the Election Commission by drawing lots in public in such manner as it may deem fit, after notifying in the Gazette of India the time and place at which the lots will be drawn ; and the term of office of a member shall expire on the second day of April, 1958, 1956 or 1954, according as he is placed in the first, second or third category.

4. The Election Commission shall cause to be published in the Gazette of India a statement showing the terms of office of members as determined under paragraph 3.

5. If on the date on which lots are drawn under pargraph 3 any seats in the Council of States are vacant, all references to members in the foregoing provisions of this Order shall be construed as including references to the persons who last filled those seats.

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1. Subs. by Act 40 of 1961, s. 29, for sub-section (3) (w.e.f. 20-9-51), which was ins. by Act 27 of 1956, s. 82.

1. S.R.O. 1669, d. 26-9-52 (Gaz. of India, Extraordinary, Part II, Sec. 3, d. 30-9-52).

THE SCHEDULE

(*See* paragraph 8)

	Groups of Members	Number of members to be placed in First Category	Second Category	Third Category
1.	Representatives of Assam	2	2	2
2.	,, ,, Bihar	7	7	7
3.	,, ,, Bombay	6	6	5
4.	,, ,, Madhya Pradesh	4	4	4
5.	,, ,, Madras	9	9	9
6.	,, ,, Orissa	3	3	3
7.	,, ,, Punjab	3	2	3
8.	,, ,, Uttar Pradesh	10	11	10
9.	,, ,, West Bengal	5	4	5
10.	,, ,, Hyderabad	3	4	4
11.	,, ,, Jammu and Kashmir	2	1	1
12.	,, ,, Madhya Bharat	2	2	2
13.	,, ,, Mysore	2	2	2
14.	,, ,, P E.P.S.U.	1	1	1
15.	,, ,, Rajasthan	3	3	3
16.	,, ,, Saurashtra	1	2	1
17.	,, ,, Travancore-Cochin	2	2	2
18.	,, ,, Vindhya Pradesh	1	1	2
19.	,, ,, Bhopal ... ... / Bilaspur-cum-Himachal Pradesh / Delhi and ... ... / Kutch	2	1	1
20.	Members nominated by the President	4	4	4
		72	71	71

X. ARTICLE 97.

THE SALARIES AND ALLOWANCES OF OFFICERS OF PARLIAMENT ACT, 1953 (ACT NO. 20 OF 1953).

An Act to provide for the salaries and allowances of certain Officers of Parliament. [*16th May, 1953*

BE it enacted by Parliament as follows :—

Short title and commencement.

1. *(1)* This Act may be called the Salaries and Allowances of Officers of Parliament Act, 1953.

(2) It shall be deemed to have come into force on the first day of May, 1953.

Definition.

2. In this Act "officer of Parliament" means any of the following officers, namely, the Chairman and Deputy Chairman of the Council of States and the Speaker and the Deputy Speaker of the House of the People.

Salaries of officers of Parliament.

3. There shall be paid to the Chairman and the Speaker a salary of two thousand two hundred and fifty rupees per mensem, and to the Deputy Chairman and the Deputy Speaker a salary of two thousand rupees per mensem.

Residence for officers of Parliament.

4. Each officer of Parliament shall be entitled without payment of rent to the use of a furnished residence throughout his term of office and for a period of fifteen days immediately thereafter, and no charge shall fall on the officer personally in respect of the maintenance of such residence.

Explanation.—For the purposes of this section, "residence" includes the staff quarters and other buildings appurtenant thereto and the garden thereof, and "maintenance" in relation to a residence includes the payment of local rates and taxes and the provision of electricity and water.

Sumptuary allowance to the Chairman and the Speaker.

5. There shall be paid to the Chairman and the Speaker a sumptuary allowance of five hundred rupees per mensem.

Travelling and daily allowances to officers of Parliament.

6. (*1*) Subject to any rules made in this behalf under section 11, an officer of Parliament shall be entitled to—

(*a*) travelling allowances for himself and the members of his family and for the transport of his and his family's effects :—

(*i*) in respect of the journey to Delhi from his usual place of residence outside Delhi for assuming office, and

(*ii*) in respect of the journey from Delhi to his usual place of residence outside Delhi on relinquishing office ; and

(*b*) travelling and daily allowances in respect of tours undertaken by him in the discharge of his official duties, whether by sea, land or air.

(*2*) Any travelling allowance under this section may be paid in cash or free official transport may be provided in lieu thereof.

Medical facilities to officers of Parliament.

7. Subject to any[1] rules made in this behalf under secton 11, an officer of Parliament and the members of his family shall be entitled free of charge to accommodation in hospitals maintained by the Government and also to medical treatment.

Advances to officers of Parliament for purchase of motor-cars.

8. There may be paid to any officer of Parliament by way of a repayable advance such sum of money as may be determined by rules[2] made in this behalf under section 11 for the purchase of a motor-car in order that he may be able to discharge conveniently and efficiently the duties of his office.

Officers of Parliament not to draw salary or allowances as Members of Parliament.

9. No officer of Parliment in receipt of a salary or allowance under this Act shall be entitled to receive any sum out of funds provided by Parliament by way of salary or allowance in respect of his membership of either House of Parliament.

Notification respecting appointment etc., of officers of Parliament to be conclusive evidence thereof.

10. The date on which any person became or ceased to be an officer of Parliament shall be published in the Official Gazette and any such notification shall be conclusive evidence of the fact that he became, or ceased to be, an officer of Parliament on that date for all the purposes of this Act.

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1. For such rules, *see* Gazette of India, 1954, Pt. II, Sec. 8, p. 810.
2. For the Officers of Parliament (Advances for Motor Cars) Rules, 1958, *see* Gazette of India, 1954, Pt. II, Sec. 8, p. 1468.

Power to make rules.

11. (*1*) The Central Government may, in consultation with the Chairman and the Speaker, make[1] rules for carrying out the purposes of this Act.

(*2*) All rules made under this Act shall be laid before both Houses of Parliament as soon as may be after they are made.

XI. ARTICLE 98 (3).

THE RAJYA SABHA SECRETARIAT (RECRUITMENT AND CONDITIONS OF SERVICE) RULES, 1957[2].

S.R.O. 844.—In exercise of the powers conferred by clause (3) of article 98 of the Constitution of India, the President, after consultation with the Chairman of the Rajya Sabha, hereby makes the following rules regulating the recruitment, and the conditions of service of persons appointed, to the secretarial staff of the Rajya Sabha, namely:

PART I. GENERAL

Short title and commencement.

1. (1) These rules may be called the Rajya Sabha Secretariat (Recruitment and Conditions of Service) Rules, 1957.

(2) They shall come into force at once.

Definitions.

2. In these rules, unless the context otherwise requires:—

(a) "Chairman" means the Chairman of the Rajya Sabha;

(b) "Constitution" means the Constitution of India;

(c) "Deputation" means the temporary transfer or loan of the services of an officer from or to the Secretariat to or from any office outside the Secretariat;

(d) "Disciplinary Authority", in relation to the imposition of a penalty on an officer, means the authority competent under these rules to impose on him that penalty;

(e) "Ministry of Finance" means the Ministry of Finance of the Government of India;

(f) "Officer" means a person appointed to, or borne on the cadre of, the secretarial staff of the Rajya Sabha;

(g) "post" means a post in the Secretariat and a post shall be deemed to be a post in Class I, Class II, Class III or Class IV, according as such post is specified in Class I, Class II, Class III or Class IV, as the case may be, in the Second Schedule;

(h) "pre-1931 entrant" means a Government servant in continuous employ of the Government of India from the 16th August 1947 or any earlier date and who—

either

was in continuous Government service in a substantive or other

1. For such rules, *see* Gazette of India, 1954, Pt. II, Sec. 3, p. 810.

2. Published in the *Gazette of India Extraordinary*, Part II—Section 3, dated the 15th March, 1957.

capacity from a date prior to the 16th July 1931, and was not governed by the Revised Rates of Pay Rules, 1933;

or

entered Government service on or after the 16th July, 1931, but was wholly exempted from the operation of the Revised Rates of Pay Rules 1933, by special orders.

Explanation.—Service of a Government servant re-employed after retirement shall not be deemed to be continuous for the purpose of this clause. On re-employment, he shall not be treated as a pre-1931 entrant.

(i) "Schedule" means a Schedule to these rules ;

(j) "Secretary" means the Secretary of the Rajya Sabha;

(k) "Secretariat" means the Rajya Sabha Secretariat; and

(l) "an officer in Class I, Class II, Class III or Class IV" means an officer holding a post specified in Class I, Class II, Class III or Class IV as shown in the Second Schedule.

Strength and composition of the Secretariat.

3. (1) There shall be in the Secretariat:—

(a) Such number of permanent posts as are specified in the First Schedule; and

(b) Such number of temporary posts of the categories specified in the Second Schedule as the Chairman may, from time to time, by order sanction;

Provided that no order sanctioning the creation of a temporary post in Class I, above the rank of Under Secretary, shall be issued by the Chairman except after consultation with the Ministry of Finance.

(2) The Chairman may, from time to time, amend the First Schedule by increasing or reducing the number of posts specified therein or by adding thereto any new category of post or posts:

Provided that when such amendment relates to a post in Class I or Class II, no order sanctioning the amendment shall be made by the Chairman except after consultation with Ministry of Finance.

PART II. RECRUITMENT

Method of recruitment.

4. (1) Recruitment to a post or class of post may be made by one or more of the following methods, namely :

(a) by promotion of a person employed in the Secretariat;

(b) by permanent transfer or deputation of a person serving outside the Secretariat in connection with the affairs of the Union or of a State;

(c) by direct recruitment.

(2) The Chairman may, from time to time, by general or special order—

(a) specify the method or methods by which recruitment to a post or class of posts shall be made:

(b) in case of recruitment by more than one such method, determine the proportion of vacancies to be filled by each method; and

(c) in case of direct recruitment, specify the manner in which such recruitment shall be made.

Qualifications for appointment.

5. The qualifications required for appointment to the various categories of posts by departmental promotion or otherwise shall be such as the Chairman may, from time to time, by general or special order, specify.

Appointing Authority.

6. All appointments to posts shall be made by the Chairman:

Provided that the Chairman may, by general or special order, delegate to the Secretary or any other officer of the Secretariat, his power to make appointments to any post or class of posts specified in such order other than posts in Class I.

Probation.

7. Every person appointed to a permanent post by direct recruitment, with a view to his eventual substantive appointment to that post, shall be on probation for a period of two years:

Provided that the period of probation may, in the case of any particular person or post, be extended or reduced by order of the authority competent under rule 6 to make appointment to the post for the time being held by such person or to such particular post, as the case may be.

PART III. PAY, LEAVE, PENSION AND CERTAIN OTHER CONDITIONS OF SERVICE

Pay, Leave, Pension and Age of Compulsory Retirement.

8. Subject to the provisions of rules 11 and 12,—

(a) the pay or scale of pay attached to each of the posts specified in column 1 of the Second Schedule shall be as set out against it in column 3 of that Schedule:

Provided that in the case of a pre-1931 entrant, who has not elected the pay or the scale of pay so set out, the pay or scale of pay attached to the post held by him shall be the pay or scale of pay as set out against it in column 2 of that Schedule;

(b) the rules relating to the grant of leave and pension to officers and the age at which they shall be required to retire from service shall be as set out in the Third and Fourth Schedules;

(c) notwithstanding anything in clause (a) or clause (b) the holder of the post of Secretary at the time these rules come into force shall be governed in the matter of pay, leave, pension and age of retirement, by the provisions specified in the Fifth Schedule;

(d) the Chairman may, from time to time, by general or special order, after consultation with the Ministry of Finance, amend any provision in the Second, Third and Fourth Schedules.

Seniority of Officers.

9. The seniority of officers shall be determined in accordance with such provisions as the Chairman may, from time to time, by general or special order, make.

Other Conditions of Service.

10. In respect of all other matters regulating the conditions of service of officers for which no provision or insufficient provision has been made in these rules, officers shall be governed by such rules as are applicable to the officers holding corresponding posts in the Central Secretariat, subject to such modifications, variations or exceptions, if any, in such rules, as the Chairman may, after consultation with the Ministry of Finance, from time to time, by order specify.

Explanation.—For the purposes of this rule, the posts specified in column 1 of the Sixth Schedule shall correspond to the posts in the Central Secretariat specified in the corresponding entries in column 2 of that Schedule.

Relaxation in exceptional cases.

11. Where the Chairman is satisfied that the operation of any rule or provision in the matter of the conditions of service of an officer causes undue hardship in any particular case, the Chairman may, after consultation with the Ministry of Finance, by order dispense with, or relax the requirements of, that rule or provision to such extent and subject to such conditions as may be considered necessary for dealing with the case in a just and equitable manner.

Conditions of service of officers on deputation to the Secretariat.

12. An officer while on deputation to the Secretariat may be permitted to retain, to such extent and subject to such conditions as may be determined by the Chairman after consultation with the Ministry of Finance, the terms and conditions of service which were applicable to him immediately before his deputation to the Secretariat.

PART IV. CONTROL AND DISCIPLINE

Control.

13. All officers shall be subject to the superintendence and control of the Chairman.

Penalties.

14. The following penalties may, for good and sufficient reasons and as hereinafter provided, be imposed on an officer, namely :—

(i) censure ;

(ii) withholding of increments or promotion ;

(iii) recovery from pay of the whole or part of any pecuniary loss caused to the Union by negligence or breach of orders :

(iv) reduction in rank including reduction to a lower post or time-scale or to a lower stage in a time-scale ;

(v) compulsory retirement ;

(vi) removal from service in the Secretariat which shall not be a disqualification for future employment ;

(vii) dismissal from service in the Secretariat which shall ordinarily be a disqualification for future employment.

Explanations.—(1) The termination of employment of an officer or reversion of an officer to his permanent post during or at the end of the period of probation, or the termination of employment of a temporary officer in accordance with the terms of his appointment or in accordance with the terms of the agreement under which he is employed, or the replacement of the services of an officer whose services have been borrowed from any office outside the Secretariat at the disposal of the authority which had lent the services, does not amount to removal or dismissal within the meaning of this rule.

(2) The stoppage of an officer at the efficiency bar in the time scale of his pay on the ground of his unfitness to cross the bar does not amount to withholding of increments or promotion within the meaning of this rule.

(3) A refusal to promote an officer, after due consideration of his case, to a post or grade to which promotions are made by selection, does not amount to withholding of promotion within the meaning of this rule.

(4) The reversion to a lower post of an officer who is officiating in a higher post, after a trial in the higher post or for administrative reasons (such as, the return of the permanent incumbent from leave or deputation, availability of a more suitable officer, and the like) does not amount to reduction in rank within the meaning of this rule.

(5) The compulsory retirement of an officer in accordance with the provisions relating to his superannuation or retirement shall not amount to a penalty under this rule.

(6) The withholding of increments of an officer for failure to pass a departmental examination in accordance with the rules or orders governing the post or the terms of his appointment does not amount to withholding of increment within the meaning of this rule.

Disciplinary Authorities.

15. Subject to the provisions of these rules, the Chairman shall have the power to impose any of the penalties specified in rule 14 on any officer :

Provided that the Chairman may, subject to the provisions of article 311 of the Constitution, by general or special order, delegate to the Secretary or any other officer the power to impose in accordance with the provisions of these rules any of the said penalties on any officer other than an officer in Class I.

Procedure for imposing major penalties.

16. (1) Without prejudice to the provisions of the Public Servants' (Inquiries) Act, 1850, no order shall be passed imposing any of the penalties specified in clauses (iv) to (vii) of rule 14 on an officer unless he has been informed in writing of the grounds on which it is proposed to take action and has been afforded an opportunity of defending himself in the manner hereinafter provided.

(2) The grounds on which it is proposed to take action shall be reduced to the form of a definite charge or charges which shall be communicated to the officer charged together with a statement of the allegations on which each charge is based and of any other circumstances which it is proposed to take into consideration in passing orders on the case.

(3) The Officer shall be required, within such time as may be considered by the Disciplinary Authority to be reasonably adequate in the circumstances of the case, to put in a written statement of his defence and to state whether he desires to be heard in person.

(4) The officer charged may ask for permission to inspect and take notes from official records for the purpose of preparing his written statement, provided that the Disciplinary Authority may, for reasons to be recorded in writing, refuse him such permission if in its opinion such records are not strictly relevant to the case or it is not desirable in the public interest to grant such permission.

(5) After the written statement is received from the officer in accordance with sub-rule (3), or, if no such written statement is received within the time allowed, the Disciplinary Authority may, if it considers it necessary, appoint a Board of Inquiry or an Inquiry Officer to inquire into the charges framed against the officer and shall have the charges inquired into as provided in sub-rule (6). If the Disciplinary Authority does not consider it necessary to appoint a Board of Inquiry or an Inquiry Officer, the Disciplinary Authority shall itself inquire into the charges in such manner as it deems fit.

(6) If the officer desires to be heard in person, he shall be so heard. If he desires that an oral inquiry be held, or if the Disciplinary Authority so directs, an oral inquiry shall be held by the Board of Inquiry or the Inquiry Officer, as the case may be. At such inquiry, evidence shall be taken as to such of the

allegations as are not admitted and the officer charged shall be entitled to cross-examine the witnesses who give evidence in person and to have such witnesses called as he may wish:

Provided that the Board of Inquiry or the Inquiry Officer, as the case may be, may,for reasons to be recorded in writing, refuse to call any witness whose evidence is, in the opinion of the Board or Officer, not relevant or material.

(7) At the conclusion of the inquiry, the authority inquiring into the charges shall prepare a report of the inquiry recording its findings on each of the charges together with the reasons therefor. If, in the opinion of such authority, the proceedings of the inquiry establish charges different from those originally framed, it may record its findings on such charges:

Provided that the findings on such charges shall not be recorded unless the officer charged has admitted the facts constituting them or has had an opportunity of defending himself against them.

(8) The record of the inquiry shall include—

(i) the charges framed against the officer and the statement of allegations furnished to him under sub-rule (2);

(ii) his written statement of defence, if any;

(iii) the evidence recorded in the course of the inquiry;

(iv) the orders, if any, made by the Disciplinary Authority and the authority making the inquiry in regard to the inquiry ; and

(v) a report setting out the findings on each charge and reasons therefor.

(9) The Disciplinary Authority shall, if it is not the inquiring authority, consider the record of the inquiry and determine which of the findings of the Board of Inquiry or of the Inquiry Officer, as the case may be, it accepts.

(10) If the Disciplinary Authority, having regard to the findings recorded or accepted by it, is of the opinion that any of the penalties specified in clauses (iv) to (vii) of rule 14 should be imposed, it shall—

(a) furnish to the officer a copy of the report of the inquiry together with a statement of such findings ; and

(b) give him a notice stating the action proposed to be taken in regard to him and calling upon him to submit within a specified time, such presentation as he may wish to make against the proposed action :

Provided that if the Disciplinary Authority disagrees with any part or the whole of the findings of the Board of Inquiry or the Inquiry Officer, the point or points of such disagreement together with a brief statement of the grounds therefor shall also be communicated to the officer.

(11) The Disciplinary Authority shall, determine, having regard to the findings recorded or accepted by it, and the representation, if any, made by the officer under sub-rule (10), what penalty if any, should be imposed on the officer and pass appropriate orders on the case and the orders so passed shall be communicated to the officer,

(12) Notwithstanding anything contained in this rule, it shall be lawful for the Disciplinary Authority to waive, for good and sufficient reasons to be recorded in writing, any of the provisions of this rule excepting sub-rule (10) in any exceptional case where such authority is satisfied that there is difficulty in strictly complying with such provisions and that compliance with such provisions can be waived without any injustice to the officer concerned.

Procedure for imposing minor penalties.

17. (1) No order shall be passed imposing any of the penalties specified in clauses (i) to (iii) of rule 14 on an officer except after—

(a) the officer is informed in writing of the proposal to take action against him and of the allegations on which such action is proposed to be taken and he is given an opportunity to make any representation which he may wish to make ; and

(b) such representation, if any, is taken into consideration by the Disciplinary Authority,

and the order so passed shall be communicated to the officer.

(2) The record of proceedings in such cases shall include—

(i) a copy of the intimation to the officer of the proposal to take action against him ;

(ii) a copy of the statement of allegations comunicated to him ;

(iii) his representation, if any ; and

(iv) the orders on the case together with the reasons therefor.

Special procedure in certain cases.

18. The provision of rules 16 and 17 shall not apply—

(a) where the penalty is imposed on an officer on the ground of conduct which has led to his conviction on a criminal charge ;

(b) where the authority empowered to impose the penalty is satisfied for reasons to be recorded in writing that it is not reasonably practicable to follow the procedure prescribed in the said rules ; or

(c) where the President is satisfied that in the interest of the security of the State it is not expedient to follow such procedure,

and in any such case, the Disciplinary Authority may after consideration of the circumstances of the case, pass such orders thereon as it deems fit.

Suspension pending disciplinary proceedings.

19. (1) If having regard to the nature of the charges and the circumstances in any case, the Disciplinary Authority who initiates any disciplinary proceedings is satisfied that it is necessary or desirable to place under suspension the officer aginst whom such proceedings are started, it may—

(a) if the officer is serving in the Secretariat, pass an order placing him under suspension, or

(b) if the officer is serving outside the Secretariat, request the borrowing authority to place him under suspension, pending the conclusion of the inquiry and the passing of the final order in the case.

(2) An officer who is detained in custody, whether on a criminal charge or otherwise, for a period longer than forty-eight hours, shall be deemed to have been suspended under this rule.

(3) An officer against whom a criminal charge is pending may, at the discretion of the Disciplinary Authority, be placed under suspension until the termination of the proceedings if the charge is connected with his position as an officer of the Secretariat or is likely to embarrass him in the discharge of his duties in the Secretariat or involves moral turpitude :

Provided that in the case of an officer on deputation to the Secretariat, the Secretariat, shall without delay inform the lending authority of the circumstances in which that officer was placed under suspension.

(4) An officer who is placed under suspension shall, during the period of such suspension, be entitled to receive payment as a subsistence allowance, of such

amount as the Chairman may, from time to time, by general or special order, specify.

Disciplinary action against an officer on deputation outside the Secretariat

20. (1) Where the services of an officer are lent to the Central Government or any authority subordinate thereto for any work in any office outside the Secretariat or to a State Government or an authority subordinate thereto or to a local or other authority (hereinafter in this rule referred to as "the borrowing authority") the borrowing authority shall have the powers of the Disciplinary Authority under these rules for the purpose of placing him under suspension and for the purpose of taking disciplinary proceedings against him :

Provided that the borrowing authority shall forthwith inform the Secretariat of the circumstances leading to the order of his suspension or the commencement of the disciplinary proceeding, as the case may be.

(2) In the light of the findings in the disciplinary proceeding taken against the officer—

(a) if the borrowing authority is of the opinion that any of the penalties specified in clauses (i) to (iii) of rule 14 should be imposed on the officer, it may in consultation with the Secretariat pass such orders on the case as it deems necessary :

Provided that, in the event of a difference of opinion between the borrowing authority and the Secretariat, the services of the officer shall be replaced at the disposal of the Secretariat ;

(b) if the borrowing authority is of the opinion that any of the penalties specified in clauses (iv) to (vii) of rule 14 should be imposed on the officer, it shall replace his services at the disposal of the Secretariat and transmit to it the proceedings of the inquiry, and thereupon the Disciplinary Authority may pass such orders on the case as it deems necessary after complying with the provisions of sub-rules (10) and (11) of rule 16 :

Provided that the Disciplinary Authority may instead of making an order under this clause on the record of the inquiry transmitted by the borrowing authority, hold such further inquiry as it may deem necessary.

Disciplinary action against an officer on deputation to the Secretariat.

21. (1) Where an order of suspension is made or a disciplinary proceeding is taken against an officer whose services have been borrowed from the Central Government or State Government or an authority subordinate to the Central Government or a State Government or a local or other authority the authority lending his services (hereinafter in this rule referred to as "the lending authority") shall forthwith be informed of the circumstances leading to the order of his suspension or the commencement of the disciplinary proceeding against him, as the case may be.

(2) In the light of the findings in the disciplinary proceeding taken against the officer—

(a) if the Disciplinary Authority is of the opinion that any of the penalties specified in clauses (i) to (iii) of rule 14 should be imposed on the officer, it may, after consultation with the lending authority, pass such orders on the case as it deems necessary :

Provided that, in the event of a difference of opinion between the Secretariat and the lending authority, the services of the officer shall be replaced at the disposal of the lending authority ;

(b) if the Disciplinary Authority is of the opinion that any of the penalties specified in clauses (iv) to (vii) of rule 14 should be imposed on the officer, the services of such officer shall be replaced at the disposal of the lending authority and the record of the inquiry shall be transmitted to such authority for such action as it deems necessary.

PART V.—APPEAL AND REVIEW

Right of Appeal.

22. (1) An appeal shall lie to the Secretary against any order passed by any authority subordinate to the Secretary imposing any penalty specified in rule 14.

(2) An appeal shall lie to the Chairman against any order passed originally, or on appeal, by the Secretary imposing or confirming any penalty specified in rule 14.

(3) The orders of the Chairman whether passed originally or on appeal shall be final.

Form and Contents of Appeal.

23. (1) Every person preferring an appeal shall do so separately and in his own name.

(2) The appeal shall be addressed to the authority to whom the appeal lies and shall —

(a) contain all material statements and arguments relied on by the appellant ;

(b) contain no disrespectful or improper language ; and

(c) be complete in itself.

Submission of Appeals.

24. Every appeal shall be submitted to the authority which made the order appealed against :

Provided that a copy of the appeal may be submitted direct to the appellate authority.

Withholding of Appeals.

25. (1) The authority which made the order appealed against may withhold the appeal if—

(a) it is an appeal against an order from which no appeal lies, or

(b) it does not comply with the provisions of rule 23, or

(c) it is not preferred within three months after the date on which the order appealed against was received by the appellant, and no reasonable cause is shown for the delay, or

(d) it is repetition of a previous appeal which has already been decided and no new facts or circumstances are adduced which afford grounds for a reconsideration of the case :

Provided that an appeal withheld on the ground only that it does not comply with the provisions of rule 23 shall be returned to the appellant, and, if re-submitted within one month thereof after compliance with the said provisions, shall not be withheld.

(2) In every case in which an appeal is withheld the appellant shall be informed of the fact and the reasons therefor.

(3) On the first day each of January, and July every year, a list of appeals withheld by any authority under sub-rule (1) during the preceding six months together with the reasons for withholding them shall be furnished by that authority to the appellate authority.

Transmission of Appeals.

26. (1) The authority which made the order appealed against shall, without any avoidable delay, transmit to the appellate authority every appeal which is not withheld under rule 25, together with its comments thereon and the relvant records.

(2) The appellate authority to whom the appeal lies may direct transmission to it of any appeal withheld under rule 25 and thereupon such appeal and the relevant records shall be transmitted to that authority together with the comments of the authority with holding the appeal.

Consideration of Appeals.

27. In deciding an appeal the appellate authority shall consider—

(a) whether the procedure prescribed in these rules has been complied with, and if not, whether such non-compliance has resulted in violation of any provisions of the Constitution or in failure of justice;

(b) whether the findings are justified; and

(c) whether the penalty imposed is excessive, adequate or inadequate,

and pass orders—

(i) setting aside, reducing, confirming or enhancing the penalty ; or

(ii) remitting the case to the authority which imposed the penalty with such directions as it may deem fit in the circumstances of the case :

Provided that—

(i) the appellate authority shall not impose any enhanced penalty which neither such authority nor the authority which made the order appealed against is competent in the case to impose;

(ii) no order imposing an enhanced penalty shall be passed unless the appellant is given an opportunity of making any representation which he may wish to make against such enhanced penalty ; and

(iii) if the enhanced penalty which the appellate authority proposes to impose is one of the penalties specified in clauses (iv) to (vii) of rule 14, and an enquiry under rule 16 has not aleady been held in the case, the appellate authority shall, subject to the povisions of rule 18, itself hold such enquiry or direct that such inquiry be held and thereafter on consideration of the proceedings of such inquiry, pass such orders as it may deem fit.

Implementation of orders in Appeal.

28. The authority which made the order appealed against shall give effect to the orders passed by the appellate authority.

Review.

29. Notwithstanding anything contained in these rules, the Chairman may, of his own motion or otherwise, review any order which has been passed by him—

(i) imposing any penalty specified in rule 14, or

(ii) in an appeal from an order passed either originally or on appeal imposing or confirming any such penalty, within a period of six months from the date of the order so passed by him and may, on such review, confirm, modify or set aside the order:

Provided that—

(a) where it is proposed to enhance the penalty imposed by any such order passed by the Chairman, the officer concerned shall be given an opportunity of showing cause against the proposed enhancement; and

(b) if the Chairman proposes to impose any of the penalties specified in clauses (iv) to (vii) of rule 14 in a case where any inquiry under rule 16 has not been held, he shall, subject to the provisions of rule 18, direct that such inquiry be held and thereafter, on consideration of the enquiry, pass such orders as he may deem fit.

PART VI.—MISCELLANEOUS

Conduct of Officers.

30. Subject to the provisions of these rules; every officer shall be governed by such rules of conduct, discipline and control as the Chairman may, from time, to time, by general or special specify.

Quasi-permanent and Temporary service.

31. The Chairman may, after consultation with the Ministry of Finance from time to time, make such rules as he considers necessary with respect to quasi-permanent or temporary service in the Secretariat.

Authentication of orders passed by the Chairman.

32. Any order passed by the Chairman under the provisions of these rules and executed in the name of Chairman shall be authenticated in such manner as the Chairman may, from time to time, by general or special order, specify,

Residuary powers.

33. Subject to the provisions of rule 10, all matters incidental or ancillary to these rules not specifically provided for herein, shall be regulated in accordance with such orders as the Chairman may, from time to time, make.

Interpretation.

34. All questions relating to the interpretation of these rules shall be referred to the Chairman whose decision thereon shall be final:

Provided that all questions relating to the interpretation of rules 3, 8, 10, 11, 12, 31 and 33 and the First. Second, Third, Fourth and the Fifth Schedules, and any orders issued under these rules after consultation with the Ministry of Finance shall be decided by the Chairman after consultation with that Ministry.

Repeal and savings.

35. Save as otherwise expressly provided in these rules corresponding to these rules and in force immediately before the commencement of these rules are hereby repealed:

Provided that any order made or action taken under the rules so repealed shall be deemed to have been made or taken under the corresponding provisions of these rules.

[*Schedules not reproduced*]

XII. ARTICLE 101 (2).

THE PROHIBITION OF SIMULTANEOUS MEMBERSHIP RULES, 1950[1]

In exercise of the powers conferred by clause (2) of article 101 and clause (2) of article 190 of the Constitution of India, the President is pleased to make the following Rules, namely:—

1. These Rules may be called the Prohibition of Simultaneous Membership Rules, 1950.

2. The period at the expiration of which the seat in Parliament of a person who is chosen a member both of Parliament and of a House of the Legislature of a State specified in[2]*** the First Schedule to the Constitution of India hereinafter referred to as "the Constitution") shall become vacant, unless he has previously resigned his seat in the Legislature of such State, shall be fourteen days from the date of publication in the Gazette of India or in the Official Gazette of the State, whichever is later, of the declaration that he has been so chosen.

[3]* * * *

3. The period at the expiration of which the seat of a person who is chosen a member of the Legislatures of two or more States specified in the First Schedule to the Constitution in the Legislatures of all such States shall become vacant, unless he has previously resigned his seat in the Legislatures of all but one of the States, shall be ten days from the later or, as the case may be, the latest of the dates of publication in the Official Gazettes of such States of the declarations that he has been so chosen.

XIII. ARTICLE 102 (1) (*a*).

1. THE PARLIAMENT (PREVENTION OF DISQUALIFICATION) ACT, 1959 (10 OF 1959)

An Act to declare that certain offices of profit under the Government shall not disqualify the holders thereof for being chosen as, or for being, members of Parliament.

[*4th April, 1959.*]

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows :—

Short title.

1. This Act may be called the Parliament (Prevention of Disqualification) Act, 1959.

Definitions.

2. In this Act, unless the context otherwise requires,—

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1. Ministry of Law Notification No F. 46/50-C, dated the 26th January, 1950.
2. The words "Part A or Part B of" omitted by Notification No. S. R. O. 2178, dated the 2nd July, 1 57.
3. Proviso omitted, *ibid*.

(*a*) "compensatory allowance" means any sum of money payable to the ho'der of an office by way of daily allowance [such allowance not exceeding the amount of daily allowance to which a member of Parliament is entitled under the Salaries and Allowances of Members of Parliament Act, 1954 (30 of 1954)], any conveyance, allowance, house rent allowance or travelling allowance for the purpose of enabling him to recoup any expenditure incurred by him in peforming the functions of that office ;

(*b*) "statutory body" means any corporation, committee, commission, council, board or other body of persons, whether incorporated or not, established by or under any law for the time being in force ;

(*c*) "not-statutory body" means any body of persons other than a statutory body.

Certain offices of profit not to disqualify.

3. It is hereby declared that none of the following offices, in so far as it is an office of profit under the Government of India or the Government of any State, shall disqualify the holder thereof for being chosen as, or for being, a member of Parliament, namely :—

(*a*) any office held by a Minister, Minister of State or Deputy Minister for the Union or any State, whether *ex officio* or by name ;

(*b*) the office of Chief Whip, Deputy Chief Whip or Whip in Parliament or of a Parliamentary Secretary ;

(*c*) the office of a member of any force raised or maintained under the National Cadet Corps Act, 1948 (31 of 1948), the Territorial Army Act, 1948 (56 of 1948), or the Reserve and Auxiliary Air Forces Act, 1952 (62 of 1952) ;

(*d*) the office of a member of a Home Guard constituted under any law for the time being in force in any State ;

(*e*) the office of sheriff in the city of Bombay, Calcutta or Madras ;

(*f*) the office of chairman or member of the syndicate, senate, executive committee, council or court of a university or any other body connected with a university ;

(*g*) the office of a member of any delegation or mission sent outside India by the Government for any special purpose ;

(*h*) the office of chairman or member of a committee (whether consisting of one or more members), set up temporarily for the purpose of advising the Government or any other authority in respect of any matter of public importance or for the purpose of making an inquiry into, or collecting statistics in respect of, any such matter, if the holder of such office is not entitled to any remuneration other than compensatory allowance ;

(*i*) the office of chairman, director or member of any statutory or non-statutory body other than any such body as is referred to in clause (*h*), if the ho'der of such office is not entitled to any remuneration other than compensatory allowance, but excluding (*i*) the office of chairman of any statutory or non-statutory body specified in Part I of the Schedule and (*ii*) the office of chairman or secretary of any statutory or non-statutory body specified in Part II of the Schedule ;

(*j*) the office of village revenue officer, whether called a lambardar, malguzar, patel, deshmukh or by any other name, whose duty is to collect land revenue and who is remunerated by a share of, or commission on, the amount of land revenue collected by him, but who does not discharge any police functions.

Explanation.—For the purposes of this section, the office of chairman or secretary shall include every office of that description by whatever name called.

Temporary suspension of disqualification in certain cases.

4. If a person being a member of Parliament who immediately before the commencement of this Act held an office of profit declared by any law repealed by this Act not to disqualify the holder thereof for being such member, becomes so disqualified by reason of any of the provisions contained in this Act, such office shall not, if held by such person for any period not extending beyond a period of six months from the commencement of this Act, disqualify him for being a member of Parliament.

Repeals.

5. The Parliament (Prevention of Disqualification) Act, 1950 (19 of 1950), the Parliament Prevention of Disqualification Act, 1951 (68 of 1951), the Prevention of Disqualification Act, 1953 (1 of 1954), and any provision in any other enactment which is inconsistent with this Act are hereby repealed.

THE SCHEDULE

[*See* section 8 (*i*)]

PART I

BODIES UNDER THE CENTRAL GOVERNMENT

Air-India International Corporation established under section 8 of the Air Corporations Act, 1953 (27 of 1953).

Air Transport Council constituted under section 80 of the Air Corporations Act, 1953 (27 of 1953).

Board of Directors of the Export Risks Insurance Corporation[1]*** Limited.

Board of Directors of the Heavy Electricals[1]*** Limited.

Board of Directors of the Hindustan Cables[1]*** Limited.

Board of Directors of the Hindustan Insecticides[1]*** Limited.

Board of Directors of the Hindustan Machine Tools[1]*** Limited.

Board of Directors of the Hindustan Shipyard Limited.

Board of Directors of the[2] [Hindustan Chemicals and Fertilizers Limited].

Board of Directors of the National Coal Development Corporation (Private) Limited.

Board of Directors of the National[3][Industrial] Development Corporation[1]*** Limited.

Board of Directors of the National Instruments[1]*** Limited.

Board of Directors of the National Small Industries Corporation[1]*** Limited.

Board of Directors of the Neyveli Lignite Corporation (Private) Limited.

Board of Directors of the Sindri Fertilizers and Chemicals[1]*** Limited.

Board of Directors of the State Trading Corporation of India[1]*** Limited.

Central Warehousing Corporation established under section 17 of the Agricultural Produce (Development and Warehousing) Corporations Act, 1956 (28 of 1956).

Coal Board established under section 4 of the Coal Mines (Conservation and Safety) Act, 1952 (12 of 1952).

Coal Mines Labour Housing Board constituted under section 6 of the Coal Mines Labour Welfare Fund Act, 1947 (63 of 1947).

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1. The brackets and word "(Private)" omitted by Act 58 of 1960, s. 8 and Sch. II.
2. Subs. by s. 8 and Sch. II, *ibid.*, for "Nangal Fertilizers and Chemicals (Private) Limited."
3. Ins. by s. 8 and Sch. II, *ibid.*

Commissioners for the Port of Calcutta.

Committee for the allotment of land in the township of Gandhidham.

Company Law Advisory Commission constituted under section 410 of the Companies Act, 1956 (1 of 1956).

Cotton Textiles Fund Committee constituted under the Textile Funds Ordinance, 1944 (84 of 1944).

Dock Labour Board, Bombay, established under the Bombay Dock Workers (Regulation of Employment) Scheme, 1956, made under the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948).

Dock Labour Board, Calcutta, established under the Calcutta Dock Workers (Regulation of Employment) Scheme, 1956, made under the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948).

Dock Labour Board, Madras, established under the Madras Dock Workers (Regulation of Employment) Scheme, 1956, made under the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948).

Forward Markets Commission established under section 8 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952).

Indian Airlines Corporation established under section 8 of the Air Corporations Act, 1953 (27 of 1953).

Industrial Finance Corporation of India established under section 3 of the Industrial Finance Corporation Act, 1948 (15 of 1948).

Licensing Committee constituted under rule 10 of the Registration and Licensing of Industrial Undertakings Rules, 1952, made under the Industries (Development and Regulation) Act, 1951 (5 of 1951).

Mining Boards constituted under section 12 of the Mines Act, 1952 (35 of 1952).

National Co-operative Development and Warehousing Board established under section 3 of the Agricultural Produce (Development and Warehousing) Corporations Act, 1956 (28 of 1956).

Rehabilitation Finance Administration constituted under section 3 of the Rehabilitation Finance Administration Act, 1948 (12 of 1948).

Tariff Commission established under section 3 of the Tariff Commission Act, 1951 (50 of 1951).

Trustees of the Port of Bombay.

Trustees of the Port of Madras.

Trustees or Commissioners of any major Port as defined in the Indian Ports Act, 1908 (15 of 1908), other than the Port of Calcutta, Bombay or Madras.

BODIES UNDER STATE GOVERNMENTS

Andhra Pradesh

Agricultural Improvement Fund Committee constituted under section 3 of the Hyderabad Agricultural Improvement Act, 1952.

Co-operative Agricultural and Marketing Development Fund Committee.

Livestock Purchasing Committee.

Assam

Adhi Conciliation Boards constituted under section 2A of the Assam Adhiars Protection and Regulation Act, 1948.

Assam Evacuee Property Management Committee constituted under section 12 of the Assam Evacuee Property Act, 1951.

Assam Text Book Committee.

Bihar

Mining Board for Coal Mines.

Text Book and Education Literature Committee.

Bombay

Allocation Committee (Allopathic) under the Employees' State Insurance Scheme.

Allocation Committee (Ayurvedic) under the Employees' State Insurance Scheme.

Board to conduct over-all supervision of the business and affairs of the *Narsinggiriji* Mills, Sholapur.

Bombay Housing Board constituted under section 8 of the Bombay Housing Board Act, 1948.

Bombay State Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948 (54 of 1948).

Bomby State Electricity Consultative Council constituted under section 16 of the Electricity (Supply) Act, 1948 (54 of 1948),

Medical Service Committee under the Employees' State Insurance Scheme.

Pharmaceutical Committee under the Employees' State Insurance Scheme.

Regional Transport Authority for Ahmedabad, Aurangabad, Bombay, Nagpur, Poona, Rajkot and Thana constituted under section 44 of the Motor Vehicles Act, 1989 (4 of 1 89).

Saurashtra Housing Board constituted under section 8 of the Saurashtra Housing Board Act, 1954.

State Transport Authority constituted under section 44 of the Motor Vehicles Act, 1989 (4 of 1989).

Vidarbha Housing Board constituted under section 8 of the Madhya Pradesh Housing Act, 1950.

Kerala

Board of Examiners constituted under rule 8 of the Travancore-Cochin Boiler Attendants Rules, 1954.

Panel of Assessors constituted under rule 68 of the Travancore-Cochin Boiler Attendants Rules, 1954.

Panel of Assessors constituted under the Travancore-Cochin Economiser Rules, 1953.

Madhya Pradesh

Madhya Pradesh Housing Board constituted under section 8 of the Madhya Pradesh Housing Board Act, 1950.

Mahakoshal Housing Board.

Madras

Committee to select Books for Study for S.S L.C, Examination.

Landing and Shipping Fees Committees for Minor Ports.

Local Committee constituted under regulation 10A of the Employees' State Insurance (General) Regulations, 1950.

Madras Board of Transport.

Madras State Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948 (54 of 1948).

Madras States Electricity Consultative Council constituted under section 16 of the Electricity (Supply) Act, 1948 (54 of 1948).

Port Conservancy Boards.

Port Trust Boards of Minor Ports.

State Board of Communications.

Text Books Committee.

Mysore

Board of Management, Mysore Iron and Steel Works, Bhadravathi.

Board of Management of Industrial Concerns,

Orissa

Appeal Committee under the Board of Secondary Education.

Orissa Board of Communications and Transport.

Regional Transport Authority constituted under section 44 of the Motor Vehicles Act, 1989 (4 of 1989).

State Transport Authority constituted under section 44 of the Motor Vehicles Act, 1989 (4 of 1981).

Punjab

Punjab State National Workers (Relief and Rehabilitation) Board.

Rajasthan

City Improvement Trust, Kota, Constituted under the City of Kota Improvement Act, 1946.

Excise Appellate Board, Ajmer.

Rajasthan State Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948 (54 of 1948).

Urban Improvement Board, Jaipur.

Uttar Pradesh

Government Cement Factory Board.

Local Committees for Agra, Kanpur, Lucknow and Saharanpur appointed under section 25 of the Employees' State Insurance Act, 1948 (34 of 1948).

Sub-Committee to select books for Educational Expansion Department.

U.P. Sugar and Power Alcohol and Labour Housing Board constituted under section 10 of the U.P. Sugar and Power Alcohol Industries Labour Welfare and Development Fund Act, 1950.

West Bengal

Licensing Board Constituted under the regulations made under rule 45 of the Indian Electricity Rules, 956.

West Bengal Housing Board constituted under the West Bengal Development Corporation Act, 1954.

BODIES IN UNION TERRITORIES

Delhi Development Authority constituted under section 8 of the Delhi Development Act, 1957 (61 of 1957).

Delhi Electricity Power Control Board constituted under section 5 of the Bombay Electricity (Special Powers) Act, 1946, as applied to Delhi.

Delhi State Electricity Council constituted under section 16 of the Electricity (Supply) Act, 1948 (54 of 1948).

PART II

BODIES UNDER THE CENTRAL GOVERNMENT

Advisory Committee for the Air-India International Corporation appointed under section 41 of the Air Corporations Act, 1958 (27 of 1958).

Advisory Committee for the Indian Airlines Corporation appointed under section 41 of the Air Corporations Act, 1958 (27 of 1958).

Central Silk Board constituted under section 4 of the Central Silk Board Act, 1948 (61 of 1948).

Coffee Board constituted under section 4 of the Coffee Act, 1942 (7 of 1942).

Coir Board Constituted under section 4 of the Coir Industry Act, 1958 (45 of 1958).

Development Council for Acids and Fertilizers established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Alkalis and Allied Industries established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Bicycles established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Drugs, Dyes, and Intermediates established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Food Processing Industries established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Heavy Electrical Engineering Industries established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Internal Combustion Engines and Power Driven Pumps established under section 6 of the Industries (Developmet and Regulation) Act, 1951 (65 of 1951)

Development Council for Light Electrical Engineering Industries established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Machine Tools established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Non-ferrous Metals including alloys established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Oil-based and Plastic Industries established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Sugar Industry established under section 6 of the Industries (Development and Regulation) Act, 195 (65 of 1. 5).

Development Council for Textiles made of artificial Silk including artificial Silk Yarn established under section 6 of the Industries (Development and Regulati n) Act, 1951 (65 of 1951),

Development Council for Textiles made of Wool, including Woollen yarn, hosiery, carpets and druggets established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1: 51).

Durgah Committee, Ajmer, constituted under section 4 of the Durgah Khawaja Saheb Act, 1955 (86 of 1955).

Indian Central Arecanut C mmittee.

Indian Central Coconut Committee constituted under section 4 of the Indian Coconut Committee Act, 1944 (10 of 1944).

Indian Central Cotton Committee constituted under section 4 of the Indian Cotton Cess Act, 1923 (14 of 1923).

Indian Central Jute Committee.

Indian Central Oilseeds Committee constituted under section 4 of the Indian Oilseeds Committee Act, 1. 46 (9 of 1946)

Indian Central Sugarcane Committee.

Indian Central Tobacco Committee.

Indian Lac Cess Committee constituted under section 4 of the Indian Lac Cess Act, 1930 (24 of 1: 80).

Rubber Board constituted under sectien 4 of the Rubber Act, 1947 (24 of 1947).

Tea Board constituted under section 4 of the Tea Act, 1953 (29 of 1953).

BODIES UNDER STATE GOVERNMENTS

Andhra Pradesh

Market Committee constituted under section 4 of the Hyderabad Agricultural Market Act No. II of 1889F.

Market Committee constituted under section 4A of the Madras Commercial Crops Markets Act 1933.

Bihar

Bihar State Board of Religious Trusts.

Bihar Subai Majlis Awqaf.

Bodh Gaya Temple Advisory Committee constituted under section 15 of the Bodh Gaya Temple Act, 1949.

Bodh Gaya Temple Management Committee constituted under section 8 of the Bodh Gaya Temple Act, 1949.

Kerala

Administration Committee for Coir Purchase Scheme.

Malabar Market Committee constituted under section 4A of the Madras Commercial Crops Markets Act, 1933.

Tapioca Market Expansion Board.

Madras

Area Committee for Hindu Religious and Charitable Endowments constituted under section 12 of the Madras Hindu Religious and Charitable Endowments Act, 1951.

Madras State Wakf Board constituted under section 9 of the Wakf Act, 1954 (29 of 1954).

Punjab

State Marketing Board constituted under section 8 of the Patiala Agricultural Produce Markets Act, 2004.

2. THE REPRESENTATION OF THE PEOPLE (MISCELLANEOUS PROVISIONS) ACT, 1956 (ACT NO. 88 OF 1956)

An Act to provide for the removal of disqualifications for membership of, and voting at elections to, Parliament and State Legislatures, and for certain miscellaneous matters in connection with such elections.

[*28th December, 1956.*]

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows :—

Short title.

1. This Act may be called the Representation of the People (Miscellaneous Provisions) Act, 1956.

Removal of disqualifications.

2. (*1*) Every disqualification for membership of Parliament or of the Legislature of a State incurred by any person under the Representation of the People Act, 1951 (hereinafter referred to as the principal Act) before the commencement of the Representation of the People (Second Amendment) Act, 1956, for failure to lodge a return of election expenses as required by clause (c) of section 7 of the principal Act is hereby removed.

(2) Every disqualification for membership of Parliament or of the Legislature of a State or for voting at an election incurred by any person under the principal Act before the commencement of the Representation of the People (Second Amendment) Act, 1956, for any illegal practice or for any corrupt practice other than the corrupt practice of bribery or undue influence is hereby removed.

3. [*Amendment of section 7 of Act 43 of 1951.*].—*Not reprinted.*

Special provision for nomination in case of prisoners in Protuguese territory.

4. Notwithstanding anything contained in section 32 of the principal Act, where a person detained in prison or other custody in any Portuguese territory wishes to stand as a candidate at any election that may be held within one year from the commencement of this Act, the nomination paper of such person and any declaration contained therein may be signed on his behalf by the proposer ; but no such nomination paper shall be received by the returning officer unless at the time of its delivery the proposer produces before that officer—

(*a*) a writing signed by such person and showing his intention to stand as a candidate, and

(*b*) a certificate signed by a Secretary to the Government of India in the Ministry of External Affairs that the person is detained in prison or other custody in Portuguese territory.

Prevention of disqualification for membership of Parliament in certain cases.

5. It is hereby declared that the office of member of the Council of Advisers associated with the Chief Commissioner of Manipur or with the Chief Commissioner of Tripura shall not disqualify the holder thereof for being chosen as, or for being, a member of Parliament.

XIV. ARTICLE 105 (3).

THE PARLIAMENTARY PROCEEDINGS (PROTECTION OF PUBLICATION) ACT, 1956 (ACT No. 24 OF 1956)

An Act to protect the publication of reports of proceedings of Parliament.

[*26th May, 1956.*]

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows :—

Short title and extent.

1. (*1*) This Act may be called the Parliamentary Proceedings (Protection of Publication) Act, 1956.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

Definition.

2. In this Act, "newspaper" means any printed periodical work containing public news or comments on public news, and includes a news-agency supplying material for publication in a newspaper.

Publication of reports of Parliamentary proceedings privileged.

3. (*1*) Save as otherwise provided in sub-section (*2*), no person shall be liable to any proceedings, civil or criminal, in any Court in respect of the publication in a newspaper of a substantially true report of any proceedings of either House of Parliament, unless the publication is proved to have been made with malice.

(*2*) Nothing in sub-section (*1*) shall be construed as protecting the publication of any matter, the publication of which is not for the public good.

Act also to apply to Parliamentary proceedings broadcast by wireless telegraphy.

4. This Act shall apply in relation to reports or matters broadcast by means of wireless telegraphy as part of any programme or service provided by means of a broadcasting station situate within the territories to which this Act extends as it applies in relation to reports or matters published in a newspaper.

XV. ARTICLE 106.

THE SALARIES AND ALLOWANCES OF MEMBERS OF PARLIAMENT ACT, 1954 (ACT No. 30 OF 1954)

An Act to provide for the salaries and allowances of Members of Parliament.

[*22nd May, 1954.*]

BE it enacted by Parliament in the Fifth Year of he Republic of India as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Salaries and Allowances of Members of Parliament Act, 1954.

(*2*) It shall come into force on the first day of June, 1954.

Definitions.

2. In this Act,—

(*a*) "committee" means a Committee of either House of Parliament, and includes a Joint Committee of both Houses ;

(*b*) "member" means a member of either House of Parliament, [1][but, save as otherwise expressly provided in this Act, does not include]—

(*i*) a Minister as defined in the Salaries and Allowances of Ministers Act, 1952 ; and

(*ii*) an officer of Parliament as defined in the Salaries and Allowances of Officers of Parliament Act, 1953 ;

(*c*) "new member" means a member who takes his seat in either House of Parliament after the commencement of this Act and includes a member who is re-elected or renominated ;

(*d*) "period of residence on duty" means the period during which a member resides at a place where a sessien of a House of Parliament or a sitting of a committee is held or where any other business connected with his duties as such member is transacted, for the purpose of attending such session or sitting or for the purpose of attending to such other business, and includes—

(*i*) in the case of a session of a House of Parliament, a period of such residence, not exceeding three days, immediately preceding the commencement of the session and a period of such residence, not exceeding three days, immediately succeeding the [1][date on which the House of Parliament is adjourned *sine die* or for a period exceeding seven days], and

(*ii*) in the case of a sitting of a committee or any other business, a period of such residence, not exceeding two days, immediately preceding the commencement of the business of the committee or other business and a period of such residence, not exceeding two days, immediately succeeding the conclusion of the business of the committee or other business ;

Explanation.—A member who ordinarily resides at a place where a session of a House of Parliament or a sitting of a committee is held or where any other business connected with his duties as such member is transacted shall, for the duration of the session or sitting or the time occupied for the transaction of other business (including the three or two days immediately preceding or succeeding), be deemed to reside at such place for the purpose of attending such session or sitting or, as the case may be, for the purpose of attending to such other business :

(*e*) "term of office" means,—

(*a*) in relation to a person who is a member at the commencement of this Act, the period beginning with such commencement and ending with the date on which his seat becomes vacant ;

(*b*) in relation to a new member, the period beginning with the date when such member takes his seat in the House of the People or the Council of States, as the case may be, and ending with the date on which his seat becomes vacant.

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1. Subs. by Act 55 of 1958, s. 2, for "but does not include".

1. Subs. by Act 55 of 1958, s. 2, for "end of the session" (retrospectively).

Salaries and daily allowances.

3. A member shall be entitled to receive a salary at the rate of four hundred rupees per mensem during the whole of his term of office [2][and subject to any rules made under this Act] an allowance at the rate of twenty-one rupees for each day during any period of residence on duty.

Travelling allowances.

4. (*1*) There shall be paid to each member in respect of every journey performed by him [3][in India] for the purpose of attending a session of a House of Parliament or a meeting of a committee or for the purpose of attending to any other business connected with his duties as a member, from his usual place of residence to the place where the session or the meeting is to be held or the other business is to be transacted and for the return journey from such place to his usual place of residence—

(*a*) if the journey is performed by rail, an amount equal to [1][one first class fare] *plus* one third class fare for each such journey, irrespective of the class in which the member actually travels ;

(*b*) if the journey is performed by air, an amount equal to one and one-fourth of the air fare for each such journey ;

(*c*) if the journey or any part thereof cannot to performed by rail or air—

[2][(*i*) where the journey or any part thrreof is performed by steamer, an amount equal to one and three-fifths of the fare (without diet) for the highest class in the steamer for each such journey or part thereof, or, if there is no regular steamer service, such amount for each such journey of part thereof as may be prescribed by rules made under section 9 ;]

(*ii*) where the journey or any part thereof is performed by road, a road mileage at the rate of eight annas per mile for each such journey or part thereof.

Explanation—For the purposes of sub-clause (*ii*) of clause (*c*) of this sub-section, the expression "journey" shall include the journey from and to the railway station, port or aerodrome to and from the usual place of residence of the member or as the case may be, the residence of the member at the place where the session of the House of Parliament or a meeting of the committee is to be held or where any other business to be transacted.

(*2*) Notwithstanding anything contained in sub-section (*1*), a member who performs a journey by road between places connected by rail or steamer, either wholly or in part, may draw the mileage allowance referred to in sub-clause (*ii*) of clause (*c*) of sub-section (*1*) in place of the travelling allowance which would have been admissible to him if he had travelled by rail or steamer, as the case may be:

Provided that the total amount of travelling allowance drawn by such member for the entire journey shall not exceed the amount which would have been admissible to him had he performed such journey by rail or by steamer, as the case may be.

[1][(*3*) There shall be paid to a member in respect of a journey performed by him in the course of a tour outside India undertaken in the discharge of his duties as such member, such travelling and daily allowances as may be prescribed by rules made under section 9.]

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2. Subs. by s. 8, *ibid.*, for "*plus*" (retrospectively).

3. Ins. by s 4, *ibid.*

1. Subs. by Act 9 of 1955, s. 2, for "one second class fare" (w. e. f. 1-4-1955).

2. Subs. by Act 55 of 1958, s. 4, for the original sub-clause (*i*) (retrospectively).

1. Ins. by Act 55 of 1958, s. 4.

Travelling allowances for intermediate journeys.

5. Where a member absents himself for less than fifteen days during a session of a House of Parliament or a sitting of a committee for visiting any place in India, he shall be entitled to receive travelling allowances in respect of such journey to such place and for the return journey—

(*a*) if the journey is performed by rail, equal to [2][one first class fare] for each such journey irrespective of the class in which the member actually travels ;

(*b*) if the journey is performed by air, equal to one fare by air for each such journey :

Provided that such travelling allowances shall not exceed the total amount of daily allowances which would have been admissible to such member under section 3 for the days of absence if he had not so remained absent.

Explanation.—The provisions of clause (*c*) of sub-section (*1*) and of sub-section (*2*) of section 4 shall, so far as may be, apply to travelling allowances payable under this section as they apply to travelling allowances payable under that section.

Free transit by railway.

[3][**6.** (*1*) Every member shall be provided with one free non-transferable first class pass which shall entitle him to travel at any time by any railway in India.

Explanation.—For the purposes of this sub-section, a member shall include a Minister as defined in the Salaries and Allowances of Ministers Act, 1952. and an officer of Parliament as defined in the Salaries and Allowances of Officers of Parliament Act, 1953, other than the Chairman of the Council of States.

(*2*) A free railway pass issued to a member under sub-section (*1*) shall be valid for the term of his office and on the expiration of such term, the pass shall be surrendered to the Secretary of the House of the People or the Council of States, as the case may be:

Provided that where any such pass is issued to a new member before he takes his seat in either House of Parliament, he shall be entitled to use the pass for attending a session of that House for taking his seat therein.

(*3*) Until a member is provided with a free railway pass under sub-section (*1*), he shall be, and shall be deemed always to have been, entitled to an amount equal to one first class fare for any journey of the nature referred to in sub-section (*1*) of section 4 performed by him by rail.

(*4*) A member who on ceasing to be a member surrenders his pass shall, if he performs any return journey by rail of the nature referred to in sub-section (*1*) of section 4, be entitled and be deemed always to have been entitled in respect of that journey to an amount equal to one first class fare.

(*5*) Nothing in this section shall be construed as disentitling a member to any travelling allowances to which he is otherwise entitled under the provisions of this Act.]

Allowances during short intervals between the adjournment of a House of Parliament and the re-assembly of that House, etc.

7. [1][Where the interval between the adjournment of a House of Parliament or, as the case may be, one sitting of a committee and the re-assembly of that House or the next sitting of the committee at the same place] does not exceed seven days and the member concerned elects to remain at such place during the interval, he shall be entitld to draw for each day of residence at such place a daily allowance at the rate specified in section 3:

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2. Subs. by Act 9 of 1955, s. 2, for "one second class fare" (w.e.f. 1-4-1955).
3. Subs. by Act 55 of 1958, s. 5, for the original section.
1. Subs. by Act 55 of 1958, s. 6, certain words (retrospectively)

Provided that if the member leaves such place during the interval, his absence from the place shall be treated as absence during a session of a House of Parliament or a sitting of the committee, as the case may be, and the provisions of ections 5 shall apply accordingly.

Amenities.

8. A member shall be entitled to such [2][medical facilities for himself and for members of his family and to such] housing, telephone and postal facilities as may be prescribed by rules under section 9.

Power to make rules.

9. *(1)* For the purpose of making rules under this section there shall be constituted a Joint Committee of both Houses of Parliament consisting of five members from the Council of States nominated by the Chairman and ten members from the House of the People nominated by the Speaker.

(2) The Joint Committee constituted under sub-section *(1)* shall elect its Chairman and shall have power to regulate its procedure.

[3][*(2A)* A member of the Joint Committee shall hold office as such member for one year from the date of his nomination and any casual vacancy in the Joint Committee may be filled by nomination by the Chairman of the Council of States or the Speaker of the House of the People, as the case may be.

Explanation.—In the case of a member of a Joint Committee holding office as such immediately before the commencement of the Salaries and Allowances of Members of Parliament (Amendment) Act, 1958, the period of one year shall be computed from the date of such commencement.]

(3) The Joint Committee constituted under sub-section *(1)* may [1][after consultation with the Central Government] make [2]rules to provide for all or any of the following matters, namely :—

(a) the routes for thr performance of any journey ;

(b) the manner in which fractions of a day shall be dealt with for the purpose of determining the daily allowance admissible for that day ;

(c) the travelling allowance admissible where a member is provided with free transit for the whole or any part of a journey [1][and the reduction of the daily allowance where a member is provided with free board or lodging at the expense of the Government or a local authority ;]

(d) the travelling allowance admissible where the place from which a member commences his journey or to which he returns is not his usual place of residence ;

[*(dd)* the travelling allowance admissible in respect of journeys performed by any vessel where there is no regular steamer service ;

(ddd) the travelling and daily allowances admissible for journeys performed by a member in the course of a tour outside India undertaken in connection with his duties as such member ;]

(e) the form in which certificates, if any, shall be furnished by a member for the purpose of claiming any allowance under this Act ;

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2. Subs. by s. 7, *ibid*, for "medical".

3. Ins. by s. 8, *ibid*.

1. Ins. by Act 55 of 1958, s. 8.

2. For the Housing and Telephone Facilities (Members of Parliament) Rules, 1956, *see* Gazette of India, 1956, Extraordinary, Part. II, Sec. 3, pp. 867-870.

(*f*) medical, housing, telephone[2] and postal facilities mentioned in section 8; and

(*g*) generally for regulating the payment of daily and travelling allowances under this Act.

(*4*) Any rules made under sub-section (*3*) shall not take effect until they are approved and confirmed by the Chairman of the Council of States and the Speaker of the House of the People and are published in the Official Gazette, and such publication of the rules shall be conclusive proof that they have been duly made.

Validation of payment of certain travelling allowances.

10. [1][(*1*)] Where a member is entitled to receive travelling allowance in respect of any journey performed by him by a railway before the commencement of this Act, he shall, notwithstanding the abolition of first class accommodation on such railway, be entitled and be deemed always to have been entitled to receive travelling allowance in respect of such journey at the rates admissible to him in accordance with the law then in force, as if the first class accommodation had not been abolished on such railway and as if the member had in fact travelled by first class and, accordingly, the payment of any travelling allowance to such member in respect of such journey at the aforesaid rates shall be deemed to have been validly made and shall not be called in question by any authority on the ground only that the first class accommodation had been abolished on such railway and that the member had not in fact travelled by first class.

[2][(*2*)] All travelling and daily allowances paid to a member before the commencement of the Salaries and Allowances of Members of Parliament (Amendment) Act, 1958, in respect of journeys performed by him in the course of a tour outside India in the discharge of his duties as such member, shall be deemed to have been validly paid and the payment of such allowances shall not be called in question by any authority.

(*3*) All rules providing for any of the matters included in sub-section (*3*) of section 9 by the Salaries and Allowances of Members of Parliament (Amendment) Act, 1958, made before the commencement of that Act and in force at such commencement shall be deemed to have been validly made as if the said sub-section as amended by that Act had been in force on the date on which such rules were made.]

XVI. ARTICLE 118 (2).

1. RULES OF PROCEDURE AND CONDUCT OF BUSINESS IN LOK SABHA (HOUSE OF THE PEOPLE)[1]

CHAPTER I

SHORT TITLE AND DEFINITIONS

Short title.

1. These rules may be called "the Rules of Procedure and Conduct of Business in Lok Sabha".

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1. S. 10 renumbered as sub-section (1) thereof by Act 55 of 1958, s. 9.
2. Ins. by s. 9, *ibid.*
1. Gaz. of India Extraording, d. 17-4-52, Pt. I, s. 1.

Definitions.

2. (1) In these rules, unless the context otherwise requires,—

"Bulletin" means the Bulletin of the House containing (a) a brief record of the proceedings of the House at each of its sittings ; (b) information on any matter relating to or connected with the business of the House or other matter which in the opinion of the Speaker may be included therein ; and (c) information regarding Parliamentary Committees :

"Constitution" means the Constitution of India ;

"Council" means the Council of States (Rajya Sabha) ;

"Finance Minister" includes any Minister ;

"Gazette" means the Gazette of India ;

"House" means the House of the People (Lok Sabha) ;

"Houses" means the Council of States (Rajya Sabha) and the House of the People (Lok Sabha) ;

"Lobby" means the covered corridor immediately adjoining the Chamber and coterminous with it ;

"*Lok Sabha Secretariat/Secretariat' means and includes the Lok Sabha Secretariat at Delhi and any Camp Office set up outside Delhi for the time being for, or under the authority of, the Speaker ;*"

"member" means a member of the House of the People (Lok Sabha) ;

"member in charge of the Bill" means the member who has introduced the Bill and any Minister in the case of a Government Bill ;

"Minister" means a member of the Council of Ministers, a Minister of State, a Deputy Minister or a Parliamentary Secretary ;

"Parliamentary Committee" means a Committee which is appointed or elected by the House or nominated by the Speaker and which works under the direction of the Speaker and presents its report to the House or to the Speaker and the Secretariat for which is provided by the Lok Sabha Secretariat ;

"precincts of the House" means and includes the Chamber, the Lobbies, the Galleries and such other places as the Speaker may from time to time specify ;

"private member" means a member other than a Minister ;

"Secretary" means the Secretary to the House of the People (Lok Sabha) and includes any person for the time being performing the duties of the Secretary ;

"Table" means the Table of the House.

(2) Words and expressions used in the Constitution and also in these rules shall, unless the context otherwise requires, have the meanings assigned to them in the Constitution.

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CHAPTER II

SUMMONS TO MEMBERS, SEATING, OATH OR AFFIRMATION AND ROLL OF MEMBERS

Summons to members.

3. The Secretary shall issue a summons to each member specifying the date and place for a session of the House :

Provided that when a session is called at short notice or emergently, summons may not be issued to each member separately but an announcement of the date and place of the session shall be published in the Gazette and made in the press, and members may be informed by telegram.

Seating of members.

4. The members shall sit in such order as the Speaker may determine.

Oath or Affirmation.

5. A member who has not already made and subscribed an oath or affirmation, in pursuance of Article 99 of the Constitution, may do so at the commencement of a sitting of the House or at any other time of the sitting of the House, as the Speaker may direct, on any day after giving previous notice in writing to the Secretary.

Roll of Members.

6. There shall be a Roll of Members of the House which shall be signed in the presence of the Secretary by every member, before taking his seat.

CHAPTER III

ELECTION OF SPEAKER AND DEPUTY SPEAKER AND PANEL OF CHAIRMEN

Election of Speaker by House.

7. (1) The election of a Speaker shall be held on such date as the President may fix, and the Secretary shall send to every member notice of this date.

(2) At any time before noon on the day preceding the date so fixed, any member may give notice in writing, addressed to the Secretary, of a motion that another member be chosen as the Speaker of the House, and the notice shall be seconded by a third member and shall be accompanied by a statement by the member whose name is proposed in the notice that he is willing to serve as Speaker, if elected :

Provided that a member shall not propose his own name, or second a motion proposing his own name, or propose or second more than one motion.

(3) A member in whose name a motion stands on the list of business may, when called, move the motion or withdraw the motion, and shall confine himself to a mere statement to that effect.

(4) The motions which have been moved and duly seconded shall be put one by one in the order in which they have been moved, and decided, if necessary, by

division. If any motion is carried, the person presiding shall, without putting later motions, declare that the member proposed in the motion which has been carried, has been chosen as the Speaker of the House.

Election of Deputy Speaker by House.

8. (1) The election of a Deputy Speaker shall be held on such date as the Speaker may fix, and the Secretary shall send to every member notice of this date.

(2) At any time before noon on the day preceding the date so fixed, any member may give notice in writing, addressed to the Secretary, of a motion that another member be chosen as the Deputy Speaker of the House, and the notice shall be seconded by a third member and shall be accompanied by a statement by the member whose name is proposed in the notice that he is willing to serve as Deputy Speaker, if elected :

Provided that a member shall not propose his own name, or second a motion proposing his own name, or propose or second more than one motion.

(3) A member in whose name a motion stands on the list of business may, when called, move the motion or withdraw the motion, and shall confine himself to a mere statement to that effect.

(4) The motions which have been moved and duly seconded shall be put one by one in the order in which they have been moved, and decided, if necessary, by division. If any motion is carried, the person presiding shall, without putting later motions, declare that the member proposed in the motion which has been carried, has been chosen as the Deputy Speaker of the House.

Panel of Chairmen.

9. (1) At the commencement of the House or from time to time as the case may be, the Speaker shall nominate from amongst the members a panel of not more than six Chairmen, any one of whom may preside over the House in the absence of the Speaker and the Deputy Speaker when so requested by the Speaker or, in his absence, by the Deputy Speaker.

(2) A Chairman nominated under sub-rule (1) shall hold office until a new panel of Chairmen is nominated.

Powers of Deputy Speaker or other member presiding over sittings of House.

10. The Deputy Speaker or any other member competent to preside over a sitting of the House under the Constitution or these rules shall, when so presiding, have the same powers as the Speaker when so presiding and all references to the Speaker in these rules shall in these circumstances be deemed to be references to any such person so presiding.

CHAPTER IV

SITTINGS OF THE HOUSE

When is sitting of House duly constituted.

11. A sitting of the House is duly constituted when it is presided over by the Speaker or any other member competent to preside over a sitting of the House under the Constitution or these rules.

Commencement of sitting.

12. Sittings of the House shall, subject to the direction of the Speakar, ordinarily commence at 11-00 hours.

Sittings of House.

13. The House shall sit on such days as the Speaker, having regard to the state of business of the House, may from time to time direct.

Conclusion of sitting.

14. Unless the Speaker otherwise directs, sitting of the House on any day shall ordinarily conclude at 17-00 hours.

Adjournment of House.

15. The Speaker shall determine the time when a sitting of the House shall be adjourned *sine die* or to a particular day, or to an hour or part of the same day:

Provided that the Speaker may, if he thinks fit, call a sitting of the House before the date or time to which it has been adjourned or at any time after the House has been adjourned *sine die*.

CHAPTER V

PRESIDENT'S ADDRESS AND MESSAGES TO THE HOUSE

Allotment of time for discussion of the Address.

16. The Speaker shall, in consultation with the Leader of the House, allot time for the discussion of the matters referred to in the President's Address to the Houses under Article 87 (1) of the Constitution.

Scope of discussion.

17. On such day or days or part of any day, the House shall be at liberty to discuss the matters referred to in such Address on a Motion of Thanks moved by a member and seconded by another member.

Amendments.

18. Amendments may be moved to such Motion to Thanks in such form as may be considered appropriate by the Spaker.

Other business that may be taken up.

19. (1) Notwithstanding that a day has been allotted for discussion on the President's Address,—

(a) a motion or motions for leave to introduce a Bill or Bills may be made and a Bill or Bills may be introduced on such day, and

(b) other business of a formal character may be transacted on such day before the House commences or continues the discussion on the Address.

(2) The discussion on the Address may be postponed in favour of a Government Bill or other Government business on a motion being made that the discussion on the Address be adjourned to a subsequent day to be appointed by the Speaker. The Speaker shall forthwith put the question, no amendment or debate being allowed.

(3) The discussion on the Address shall be interrupted in the course of a sitting by an adjournment motion under rule 61.

Government's right of reply.

20. The Prime Minister or any other Minister, whether he has previously taken part in the discussion or not, shall on behalf of the Government have a general right of explaining the position of the Government at the end of the discussion and the Speaker may enquire how much time will be required for the speech so that he may fix the hour by which the discussion shall conclude.

Time limit for speeches.

21. The Speaker may, if the thinks fit, prescribe a time limit for speeches after taking the sense of the House.

President's Address under Art. 86 (1).

22. The Speaker may allot time for the discussion of the matters referred to in the President's Address under Article 86 (1) of the Constitution.

Messages from President.

23. Where a message from the President for the House under Article 86 (2) of the Constitution is received by the Speaker, he shall read the message to the House and give necessary directions in regard to the procedure that shall be followed for the consideration of matters referred to in the message. In giving these directions, the Speaker shall be empowered to suspend or vary the rules to such extent as may be necessary.

Prorogation of House.

24. When the President prorogues the House or Houses, he may address the House or Houses, as the case may be.

CHAPTER VI

ARRANGEMENT OF BUSINESS AND LIST OF BUSINESS

(a) *Arrangement of Business*

Arrangement of Government business.

25. On days allotted for the transaction of Government business, such business shall have precedence and the Secretary shall arrange that business in such order as the Speaker may, after consultation with the Leader of the House, determine :

Provided that such order of business shall not be varied on the day that business is set down for disposal unless the Speaker is satisfied that there is sufficient ground for such variation.

Allotment of time for private members' business.

26. The last two and a half hours of a sitting on Friday shall be allotted for the transaction of private members' business which originates in the House :

Provided that the Speaker may allot different Fridays for the disposal of different classes of such business and on Fridays so allotted for any particular class of business, business of that class shall have precedence :

Provided further that the Speaker may, in consultation with the Leader of the House, allot any day other than a Friday for the transaction of private member's business :

Provided further that if there is no sitting of the House on a Friday, the Speaker may direct that two and a half hours on any other day in the week may be allotted for private members' business.

Precedence of private members' Bills.

27. (1) On a day allotted for the disposal of private members' Bills, such Bills shall have relative precedence in the following order, namely :—

(a) Bills in respect of wihch the motion is that leave be granted to introduce the Bill ;

(b) Bills returned by the President with a message under Article 111 of the Constitution ;

(c) Bills which have been passed by the House and returned by the Council with amendments ;

(d) Bills which have been passed by the Council and transmitted to the House ;

(e) Bills in respect of which a motion has been carried that the Bill be taken into consideration ;

(f) Bills in respect of which the report of a Joint or Select Committee has been presented ;

(g) Bills which have been circulated for the purpose of eliciting opinion thereon ;

(h) Bills introduced and in respect of which no further motion has been made or carried ;

(i) other Bills.

(2) The relative precedence of Bills falling under the same clause of sub-rule (1) shall be determined by ballot to be held in accordance with the orders made by the Speaker and on such day and in such manner as the Speaker may direct :

Provided that the motion in respect of Bills falling under clause (a) of sub-rule (1) shall be entered in the list of business in the order in which notices of such motions have been received in point of time :

Provided further that Bills falling under clause (h) of sub-rule (1) which are classified by the Committee on Private Members' Bills and Resolutions as category A shall have precedence over Bills classified as category B, and that the relative precedence of Bills falling under each of these categories shall be determined by ballot separately :

Provided further that where the Committee has not classified the Bills falling under clause (h) of sub-rule (1) as category A and category B, the order in which such Bills shall be put down in the list of business shall be determined by ballot in accordance with such directions as the Speaker may give,

(3) The Speaker may, by special order to be announced in the House, make such variations in the relative precedences of Bills set out in sub-rule (1) as he may consider necessary or convenient.

Precedence of private members' resolutions.

28. The relative precedence of resolutions, notices of which have been given by private members, shall be determined by ballot, to be held in accordance with the orders made by the Speaker, on such day as the Speaker may direct.

Business outstanding at end of day.

29. Private members' business set down for the day allotted for that class of business and not disposed of on that day shall not be set down for any subsequent day, unless it has gained priority at the ballot held with reference to that day :

Provided that notwithstanding anything contained in rules 27 and 28 any such business which is under discussion at the end of that day shall be set down for the next day allotted to business of that class, and shall have precedence over all other business set down for that day.

Resumption of adjourned debate on private member's Bill or resolution.

30. (1) When on a motion being carried the debate on a private member's Bill or resolution is adjourned to the next day allotted for private members' business in the same or next session, it will not be set down for further discussion unless it has gained priority at the ballot.

(2) When the debate on a private member's Bill or resolution is ajourned *sine die*, the member in charge of the Bill or the mover of the resolution, as the case may be, may, if he wishes to proceed with such Bill or resolution on a subsequent day allotted for private member's business, give notice for resumption of the adjourned debate and on receipt of such notice the relative precedence of such Bill or resolution shall be dertemined by ballot.

(b) *List of Business*

List of business.

31. (1) A list of business for the day shall be prepared by the Secretary, and a copy thereof shall be made availble for the use of every member.

(2) Save as otherwise provided in these rules, no business not included in the list of business for the day shall be transacted at any sitting without the permission of the Speaker.

(3) Save as otherwise provided in these rules, no business requiring notice shall be set down for a day earlier than the day after that on which the period of the notice necessary for that class of business expires.

(4) Unless the Speaker otherwise directs, not more than three resolutions (in addition to any resolution which is outstanding under the proviso to rule 29) shall be set down in the list of business for any day allotted for the disposal of private members' resolutions.

[For rules relating to Business Advisory Committee and Committee on Private Members' Bills and Resolutions, see Chapter XXVI of these rules.]

CHAPTER VII

QUESTIONS AND SHORT NOTICE QUESTIONS

(a) *Questions*

Time for questions.

32. Unless the Speaker otherwise directs, the first hour of every sitting shall be available for the asking and answering of questions.

Notice of questions.

33. Unless the Speaker otherwise directs, not less than ten clear days' notice of a question shall be given.

Form of notice of questions.

34. Notice of a question shall be given in writing to the Secretary and shall specify—

(a) the official designation of the Minister to whom the question is addressed ; and

(b) the date on which the question is proposed to be placed on the list of question for answer.

Notice of admission of questions to Ministers.

35. Unless the Speaker otherwise directs, no qusstion shall be placed on the list of questions for answer until five days have expired from the day when notice of such question was given by the Secretary to the Minister to whome it was addressed.

Questions for oral answers to be distinguished by asterisks.

36. A member who desires an oral answer to his question shall distinguish it by an asterisk. If he does not distinguish it by an asterisk the question shall be printed on the list of questions for written answer.

Member entitled to oral answers to three questions on a day.

37. (1) Not more than three questions distinguished by asterisks by the same member shall be placed on the list of questions for oral answer on any one day. Questions in excess of three shall be placed on the list of questions for written answer.

(2) The order in which questions for oral answer are to be placed shall be indicated by the member giving notice and, if no such order is indicated, the questions shall be placed on the list of questions for oral answer in the order in which notices are received in point of time.

Allotment of days for oral answers to questions.

38. The time available for answering questions shall be allotted on different days in rotation for the answering of questions relating to such Ministry or Ministries as the Speaker may, from time to time, provide, and on each such day, unless the Speaker with the consent of the Minister concerned otherwise directs, only questions relating to the Ministry or Ministries for which time has been allotted on that day shall be placed on the list of questions for oral answer.

Written answers to questions not replied orally.

39. If any question placed on the list of questions for oral answer on any day is not called for answer within the time available for answering questions on that day, the Minister to whom the question is addressed shall forthwith lay on the Table a written reply to the question, and no oral reply shall be required to such question and no supplementary questions shall be asked in respect thereof.

Questions to private members.

40. A question may be addressed to a private member provided the subject matter of the question relates to some Bill, resolution or other matter connected with the business of the House for which that member is responsible ; and the procedure in regard to such questions shall, as far as may be, be the same as that followed in the case of question addressed to a Minister with such variations as the Speaker may consider necessary or convenient.

Conditions of admissibility of questions.

41. (1) Subject to the provisions of sub-rule (2), a question may be asked for the purpose of obtaining information on a matter of public importance within the special cognizance of the Minister to whom it is addressed.

(2) The right to ask a question is governed by the following conditions, namely :—

(i) it shall not bring in any name or statement not strictly necessary to make the question intelligible;

(ii) if it contains a statement the member shall make himself responsible for the accuracy of the statement;

(iii) it shall not contain arguments, inferences, ironical expressions, imputations, epithets or defamatory statements;

(iv) it shall not ask for an expression of opinion or the solution of an abstract legal question or of a hypothetical porposition;

(v) it shall not ask as to the character or conduct of any person except in his official or public capacity;

(vi) it shall not ordinarily exceed 150 words;

(vii) it shall not relate to a matter which is not primarily the concern of the Government of India;

(viii) it shall not ask about proceedings in a Committee which have not been placed before the House by a report from the Committee;

(ix) it shall not reflect on the character or conduct of any person whose conduct can only be challenged on a substantive motion;

(x) it shall not make or imply a charge of a personal character;

(xi) it shall not raise questions of policy too large to be dealt with within the limits of an answer to a question;

(xii) it shall not repeat in substance questions already answered or to which an answer has been refused;

(xiii) it shall not ask for information on trivial matters;

(xiv) it shall not ordinarily ask for information on matters of past histroy ;

(xv) it shall not ask for information set forth in accessible documents or in ordinary works of reference;

(xvi) it shall not raise matters under the control of bodies or persons not primarily responsible to the Government of India;

(xvii) it shall not ask for information on a matter which is under adjudication by a court of law having jurisdictipn in any part of India;

(xviii) it shall not relate to a matter with which a Minister is not officially connected;

(xix) it shall not refer discourteously to a friendly foreign country;

(xx) it shall not ask for information regarding Cabinet discussions, or advice given to the President in relation to any matter in respect of which there is a constitutional, statutory or conventional obligation not to disclose information;

(xxi) it shall not ordinarily ask for information on matters which are under consideration before a Parliamentary Committee; and

(xxii) it shall not ordinarily ask about matters pending before any statutory tribunal or statutory authority performing any judicial or quasi-judicial functions or any commission or court of enquiry appointed to enquire into, or investigate, any matter but may refer to matters concerned with procedure or subject or stage of enquiry, if it is not likely to prejudice the consideration of the matter by the tribunal or commission or court of enquiry.

Questions on matters of correspondence between Governments of India and States.

42. In matters which are or have been the subject of correspondence between the Government of India and the Government of a State, no question shall be asked except as to matters of fact, and the answer shall be confined to a statement of fact.

Speaker to decide admissibility of questions.

43. (1) The Speaker shall decide whether a question, or a part thereof, is not admissible under these rules and may disallow any question, or a part thereof, when in his opinion it is an abuse of the right of questioning or is calculated to obstruct or prejudicially affect the procedure of the House or is in contravention of these rules.

(2) Subject to the provisions of rule 38, the Speaker may direct that a question be placed on the list of questions for answer on a date later than that specified by a member in his notice, if he is of the opinion that a longer period is necessary to decide whether the question is or is not admissible.

Speaker to decide if a question is to be treated as starred or unstarred.

44. If in the opinion of the Speaker any question put down for oral answer is of such a nature that a written reply would be more appropriate, the Speaker may direct that such question be placed on the list of questions for written answer:

Provided that the Speaker may, if he thinks fit, call upon the member who has given notice of a question for oral answer to state in brief his reasons for desiring an oral answer and, after considering the same, may direct that the question be included in the list of questions for written answer.

List of questions.

45. Questions which have not been disallowed, shall be entered in the list of questions for the day for oral or written answer, as the case may be, in accordance with the orders of the Speaker.

Order in which questions shall be called.

46. Questions for oral answers shall be called, if the time made available for questions permits, in the order in which they stand on the list before any other business is entered upon at the sitting :

Provided that a question not reached for oral answer may be answered after the end of the Question Hour with the permission of the Speaker if the Minister represents to the Speaker that the question is one of special public interest to which he desires to give a reply.

Withdrawal or postponement of questions.

47. A member may, by notice given at any time before the sitting for which his question has been placed on the list, withdraw his question, or postpone it to a later day to be specified in the notice and on such later day the question shall, subject to the provisions of rule 38, be placed on the list after all questions which have not been so postponed :

Provided that a postponed question shall not be placed on the list until two clear days have expired from the day when the notice of postponement has been received by the Secretary.

Mode of asking questions.

48. (1) When the time for asking questions arrives, the Speaker shall call successively each member in whose name a question appears on the list of questions.

(2) The member so called shall rise in his place and, unless he states that it is not his intention to ask the question standing in his name, ask the question by reference to its number on the list of questions.

(3) If on a question being called it is not asked or the member in whose name it stands is absent, the Speaker may, at the request of any member, direct that the answer to it be given.

Questions of absent members.

49. When all the questions for which real answers are desired have been called, the Speaker may, if time permits, call again any question which has not been asked by reason of the absence of the member in whose name it stands, and may also permit a member to ask a question standing in the name of another member if so authorised by him.

Supplementary questions.

50. (1) No discussion shall be permitted during the time for questions under rule 32 in respect of any question or of any answer given to a question.

(2) Any member when called by the Speaker may ask a supplementary

question for the purpose of further elucidating any matter of fact regarding which an answer has been given:

Provided that the Speaker shall disallow any supplementary question, if, in his opinion, it infringes the rules regarding questions.

Answers not to refer to proceedings in Council.

51. An answer to question in the House shall not refer to the answer to a question or proceedings in the Council during a current session.

Lapse of pending questions referred to members.

52. Where a reference is made to a member in connection with the notice of a question and no reply in received or a reply received from him is too late for the consideration of the Speaker and the placing of the question, if admitted, on the list of questions for an appropriate date, such notice shall be deemed to have lapsed.

Publicity of answers to questions in advance.

53. Answers to questions which Ministers propose to give in the House shall not be released for publication until the answers have actually been given on the floor of the House or laid on the Table.

(b) Short Notice Questions

Short notice questions.

54. (1) A question relating to a matter of public importance may be asked with notice shorter than ten clear days and if the Speaker is of opinion that the question is of an urgent character he may direct that an enquiry may be made from the Minister concerned if he is in a position to reply and, if so, on what date.

(2) If the Minister concerned agrees to reply, such question shall be answered on a day to be indicated by him and shall be called immediately after the questions which have appeared on the list of questions for oral answer have been disposed of.

(3) If the Minister is unable to answer the question at short notice and the Speaker is of opinion that the question is of sufficient public importance to be orally answered in the House. he may direct that the question be placed as the first question on the list of questions for the day on which it would be due for answer under rule 33:

Provided that not more than one such question shall be accorded first priority on the list of questions for any one day.

(4) Where two or more members give short notice questions on the same subject and one of the questions is accepted for answer at short notice, the names of the other members shall be bracketed with the name of the member whose question has been accepted for answer:

Provided that the Speaker may direct that all the notices be consolidated into a single notice, if in his opinion it is desirable to have a single self-contained question covering all the important points raised by members, and the Minister shall then give his reply to the consolidated question:

Provided further that in the case of a consolidated question the names of all the members concerned may be bracketed and shown against the question in the order of priority of their notice.

(5) Where a member desires an oral answer to a question at a shorter notice, he shall briefly state the reasons for asking the question with short notice. Where no reasons have been assigned in the notice of the question, the question shall be returned to the member.

(6) The member who has given notice of the question shall be in his seat to read the question when called by the Speaker and the Minister concerned shall give a reply immediately :

Provided that when a question is shown in the names of more than one member the Speaker shall call the name of the first member or, in his absence, any other name.

(7) In other respects, the procedure for short notice questions shall be the same as for ordinary questions for oral answer, with such modifications as the Speaker may consider necessary or convenient.

CHAPTER VIII

HALF-AN-HOUR DISCUSSION

Discussion on a matter of public importance arising out of answer to a question.

55. (1) The Speaker shall allot half an hour for raising discussion on a matter of sufficient public importance which has been the subject of a recent question, oral or written, and the answer to which needs elucidation on a matter of fact.

(2) A member wishing to raise a matter shall give notice in writing to the Secretary three days in advance of the day on which the matter is desired to be raised, and shall shortly specify the point or points that he wishes to raise :

Provided that the notice shall be accompanied by an explanatory note stating the reasons for raising discussion on the matter in question :

Provided further that the notice shall be supported by the signatures of at least two other members :

Provided further that the Speaker may with the consent of the Minister concerned waive the requirement concerning the period of notice.

(3) The Speaker shall decide whether the matter is of sufficient public importance to be put down for discussion, and may not admit a notice which, in his opinion, seeks to revise the policy of Government.

(4) If more than two notices have been received and admitted by the Speaker, the Secretary shall hold a ballot with a view to draw two notices and the notices shall be put down in the order in which they were received in point of time :

Provided that if any matter put down for discussion on a particular day is not disposed of on that day it shall not be set down for any other day, unless the member so desires, in which case it shall be included in the ballot for the next available day.

(5) There shall be no formal motion before the House nor voting. The member who has given notice may make a short statement and the Minister concerned shall reply shortly. Any member who has previously intimated to the Speaker may be permitted to ask a question for the purpose of further elucidating any matter of fact :

Provided that if the member who has given notice is absent any member who has supported the notice may, with the permission of the Speaker, initiate the discussion.

CHAPTER IX

MOTION FOR ADJOURNMENT ON A MATTER OF PUBLIC IMPORTANCE

Speaker's consent necessary to make motion.

56. Subject to the provisions of these rules, a motion for an adjournment of the business of the House for the purpose of discussing a definite matter of urgent public importance may be made with the consent of the Speaker.

Method of giving notice.

57. Notice of an adjournment motion shall be given before the commencement of the sitting on the day on which the motion is proposed to be made to each of the following :—

(i) the Speaker ;

(ii) the Minister concerned ; and

(iii) the Secretary.

Restrictions on right to make motion.

58. The right to move the adjournment of the House for the purpose of discussing a definite matter of urgent public importance shall be subject to the following restrictions, namely :—

(i) not more than one such motion shall be made at the same sitting ;

(ii) not more than one matter shall be discussed on the same motion ;

(iii) the motion shall be restricted to a specific matter of recent occurrence ;

(iv) the motion shall not raise a question of privilege ;

(v) the motion shall not revive discussion on a matter which has been discussed in the same session ;

(vi) the motion shall not anticipate a matter which has been previously appointed for consideration. In determining whether a discussion is out of order on the ground of anticipation, regard shall be had by the Speaker to the probability of the matter anticipated being brought before the House within a reasonable time ;

(vii) the motion shall not deal with any matter which is under adjudication by a court of law having jurisdiction in any part of India ; and

(viii) the motion shall not raise any question which under the Constitution or these rules can only be raised on a distinct motion by a notice given in writing to the Secretary.

Motion for discussion on matters before tribunals, commissions etc.

59. No motion which seeks to raise discussion on a matter pending before any statutory tribunal or statutory authority performing any judicial or quasi-judicial functions or any commission or court of enquiry appointed to enquire into, or investigate, any matter shall ordinarily be permitted to be moved :

Provided that the Speaker may in his discretion allow such matter being raised in the House as is concerned with the procedure or subject or stage of enquiry if the Speaker is satisfied that it is not likely to prejudice the consideration of such matter by the statutory tribunal, statutory authority, commission or court of enquiry.

Mode of asking for leave to move adjournment motion.

60. (1) The Speaker, if he gives consent under rule 56 and holds that the matter proposed to be discussed is in order, shall, after the questions and before the list of business is entered upon, call the member concerned who shall rise in his place and ask for leave to move the adjournment of the House :

Provided that where the Speaker has refused his consent under rule 56 or is of opinion that the matter proposed to be discussed is not in order, he may, if he thinks it necessary, read the notice of motion and state the reasons for refusing consent or holding the motion as being not in order.

(2) If objection to leave being granted is taken, the Speaker shall request those members who are in favour of leave being granted to rise in their places, and if not less than fifty members rise accordingly, the Speaker shall intimate that leave is granted. If less than fifty members rise, the Speaker shall inform the member that he has not the leave of the House.

Time for taking up motion.

61. The motion shall be taken up at 16-00 hours or, if the Speaker so directs, at any earlier hour at which the business of the day may conclude.

Closure of debate.

62. The Speaker may, if he is satisfied that there has been adequate debate, put the question at 18-30 hours or at such other hour not being less than two hours and thirty minutes from the time of commencement of the debate.

Time limit for speeches.

63. The Speaker shall prescribe a time limit for speeches.

CHAPTER X

LEGISLATION

1. Bills originating in the House

(a) *Introduction and publication of Bills*

Publication before introduction.

64. The Speaker may, on request being made to him, order the publication of any Bill (together with the Statement of Objects and Reasons, the memorandum regarding delegation of legislative power and the financial memorandum accompanying it) in the Gazette, although no motion has been made for leave to introduce the Bill. In that case, it shall not be necessary to move for leave introduce the Bill, and, if the Bill is afterwards introduced, it shall not be necessary to publish it again.

Notice of motion for leave to introduce private members' Bills.

65. (1) Any member, other than a Minister, desiring to move for leave to introduce a Bill, shall give notice of his intention, and shall, together with the notice, submit a copy of the Bill and an explanatory Statement of Objects and Reasons which shall not contain arguments :

Provided that the Speaker may, if he thinks fit, revise the Statement of Objects and Reasons.

(2) If the Bill is a Bill which under the Constitution cannot be introduced without the previous sanction or recommendation of the President, the member shall annex to the notice such sanction or recommendation conveyed through a Minister, and the notice shall not be valid until this requirement is complied with.

(3) The period of notice of a motion for leave to introduce a Bill under this rule shall be one month unless the Speaker allows the motion to be made at shorter notice.

(4) The Speaker may disallow a notice of a Bill in case the Bill does not comply with the requirement of sub-rule (2) of this rule, or rule 69 or 70.

Introduction of Bill dependent on another Bill pending before House.

66. A Bill, which is dependent wholly or partly upon another Bill pending before the House, may be introduced in the House in anticipation of the passing of the Bill on which it is dependent :

Provided that the second Bill shall be taken up for consideration and passing in the House only after the first Bill has been passed by the Houses and assented to by the President.

Notice of identical Bill.

67. When a Bill is pending before the House, notice of an identical Bill, whether received before or after the introduction of the pending Bill, shall be removed from, or not entered in, the list of pending notices, as the case may be, unless the Speaker otherwise directs.

Communication of sanction or recommendation of President.

68. The order of the President granting or withholding the sanction or recommendation to the introduction or consideration of a Bill shall be communicated to the Secretary by the Minister concerned in writing.

Financial memorandum and money clauses.

69. (1) A Bill involving expenditure shall be accompanied by a financial memorandum which shall invite particular attention to the clauses involving expenditure and shall also give an estimate of the recurring and non-recurring expenditure involved in case the Bill is passed into law.

(2) Clauses or provision in Bills involving expenditure from public funds shall be printed in thick type or in italics :

Provided that where a clause in a Bill involving expenditure is not printed in thick type or in italics, the Speaker may permit the member in charge of the Bill to bring such clauses to the notice of the House.

Explanatory memorandum to Bills delegating legislative powers.

70. A Bill involving proposals for the delegation of legislative power shall further be accompanied by a memorandum explaining such proposals and drawing attention to their scope and stating also whether they are of normal or exceptional character.

Statement in connection with Ordinances.

71. (1) Whenever a Bill seeking to replace an Ordinance with or without modification is introduced in the House, there shall be placed before the House along with the Bill a statement explaining the circumstances which had necessitated immediate legislation by Ordinance.

(2) Whenever an Ordinance, which embodies wholly or partly or with modification the provisions of a Bill pending before the House, is promulgated a statement explaining the circumstances which had necessitated immediate legislation by Ordinance shall be laid on the Table at the commencement of the session following the promulgation of the Ordinance.

Motion for leave to introduce Bill.

72. If a motion for leave to introduce a Bill is opposed, the Speaker, after permitting, if he thinks fit, a brief explanatory statement from the member who moves and from the member who opposes the motion, may, without further debate, put the question :

Provided that where a motion is opposed on the ground that the Bill initiates legislation outside the legislative competence of the House, the Speaker may permit a full discussion thereon.

Publication after introduction.

73. As soon as may be after a Bill has been introduced, the Bill, unless it has already been published, shall be published in the Gazette.

(b) *Motions after introduction of Bills*

Motions after introduction of Bills.

74. When a Bill is introduced, or on some subsequent occasion, the member in charge may make one of the following motions in regard to his Bill, namely :—

(i) that it be taken into consideration ; or

(ii) that it be referred to a Select Committee of the House ; or

(iii) that it be referred to a Joint Committee of the Houses with the concurrence of the Council ; or

(iv) that it be circulated for the purpose of eliciting opinion thereon:

Provided that no such motion as is referred to in clause (iii) shall be made with reference to a Bill making provision for any of the matters specified in sub-clauses (a) to (f) of clause (1) of Article 110 of the Constitution :

Provided further that no such motion shall be made until after copies of the Bill have been made available for the use of members, and that any member may object to any such motion being made unless copies of the Bill have been so made available for two days before the day on which the motion is made, and such objection shall prevail, unless the Speaker allows the motion to be made.

Discussion of principle of Bill.

75. (1) On the day on which any motion referred to in rule 74 is made, or on any subsequent day to which the discussion thereof is postponed, the principle of the Bill and its provisions may be discussed generally, but the details of the Bill shall not be discussed further than is necessary to explain its principles.

(2) At this stage no amendments to the Bill may be moved, but—

(a) if the member in charge moves that the Bill be taken into consideration, any member may move as an amendment that the Bill be referred to a Select Committee of the House, or a Joint Committee of the Houses with the concurrence of the Council, or be circulated for the purpose of eliciting opinion thereon by a date to be specified in the motion;

(b) if the member in charge moves that the Bill be referred to a Select Committee of the House, or a Joint Committee of the Houses with the concurrence of the Council, any member may move as an amendment that the Bill be referred to a Joint Committee of the Houses with the concurrence of the Council or a Select Committee, as the case may be, or that the Bill be circulated for the purpose of eliciting opinion thereon by a date to be specified in the motion.

(3) Where a motion that a Bill be circulated for the purpose of eliciting opinion thereon is carried, and the Bill is cirulated in accordance with that

direction and opinions are received thereon, the member in charge, if he wishes to proceed with the Bill thereafter, shall move that the Bill be referred to a Select Committee of the House or a Joint Committee of the Houses with the concurrence of the Council, unless the Speaker allows a motion to be made that the Bill be taken into consideration:

Provided that if an amendment or a motion for appointment of a Select Committtee or a Joint Committee has been moved under this rule, any member may move that the House give instructions to the Select Committee or to the Joint Committee to which the Bill is proposed to be referred to make some particular or additional provision in the Bill and if necessary or convenient to consider and report on amondments which may be proposed to the original Act which the Bill seeks to amend:

Provided further that no amendment or a motion for appointment of a Joint Committee under this rule shall be moved with reference to a Bill making provision for any of the matters specified in sub-clauses (a) to (f) of clause (1) of Article 110 of the Constitution.

Persons by whom motions in respect of Bills may be made.

76. No motion that a Bill be taken intoc onsideration or be passed shall be made by any member other than the member in charge of the Bill and no motion that a Bill be referred to a Select Committee of the House, or a Joint Committee of the Houses with the concurrence of the Council, or be circulated for the purpose of eliciting opinion thereon shall be made by any member other than the member in charge except by way of amendment to a motion made by the member in charge:

Provided that if the member in charge of a Bill is unable, for reasons which the Speaker considers adequate, to move the next motion in regard to his Bill at any subsequent stage after introduction, he may authorise another member to move that particular motion with the approval of the Speaker.

Explanation.—Notwithstanding the provisions contained in the proviso the member who introduced the Bill shall continue to be the member in charge.

[For rules relating to Select Committees on Bills, see Chapter XXVI of these rules.]

(c) *Procedure after presentation of report of a Select Committee or a Joint Committee.*

Motions that may be moved after presentation of report of Select Joint Committee.

77. (1) After the presention of the final report of a Select Committee of the House or a Joint Committee of the House, as the case may be, on a Bill, the member in charge may move—

(a) that the Bill as reported by the Select Committee of the House or the Joint Committee of the Houses, as the case may be, be takan into cosideration:

Provided that any member may object to the report being so taken into censideration if a copy of the report has not been made available for the use of members for two days before the day on which the motion is made and such objection shall prevail, unless the Speaker allows the report to be taken inte consideration; or

(b) that the Bill as reported by the Select Committee of the House or the Joint Committee of the Houses, as the case may be, be re-committed to the same Select Committee or to a new Select Committee, or to the same Joint Committee with the concurrence of the Council, either—

(i) without limitation, or

(ii) with respect to particular clauses or amendments only, or

(iii) with instructions to the Committee to make some particular or additional provision in the Bill; or

(c) that the Bill as reported by the Select Committee of the House or the Joint Committee of the Houses, be circulated or re-circulated, as the case may be, for the purpose of eliciting opinion or further opinion thereon.

(2) If the member in charge moves that the Bill as reported by the Select Committee of the House or the Joint Committee of the Houses, as the case may be, be taken into consideration, any member may move as an amendment that the Bill be re-committed or be circulated or re-circulated for the purpose of eliciting opinion or further opinion theron.

Scope of debate on report of Select/Joint Committee.

78. The debate on a motion that the Bill as reported by the Select Committee of the House or the Joint Committee of the Houses, as the case may be, be taken into consideration shall be confined to consideration of the report of the Committee and the matters referred to in that report or any alternative suggestions consistent with the principle of the Bill.

(d) *Amendments to clauses etc. and consideration of Bills.*

Notice of amendments.

79. (1) If notice of an amendment to a clause or schedule of the Bill has not been given one day before the day on which the Bill is to be considered, any member may object to the moving of the amendment, and such objection shall prevail, unless the Speaker allows the amendment to be moved:

Provided that, in the case of a Government Bill, an amendment, of which notice has been received from the member in charge, shall not lapse by reason of the fact that the member in charge has ceased to be a Minister or a member and such amendment shall be printed in the name of the new member in charge of the Bill.

(2) The Secretary shall, if time permits, make available to the members from time to time lists of amendments of which notices have been received.

Conditions of admissibility of amendments.

80. The following conditions shall govern the admissibility of amendments to clauses or schedules of a Bill:—

(i) An amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates.

(ii) An amendment shall not be inconsistent with any previous decision of the House on the same question.

(iii) An amendment shall not be such as to make the clause which it proposes to amend unintelligible or ungrammatical.

(iv) If an amendment refers to, or is not intelligible without, a subsequent amendment or schedule, notice of the subsequent amendment or schedule shall be given before the first amendment is moved, so as to make the series of amendments intelligible as a whole.

(v) The Speaker shall determine the place at which an amendment shall be moved.

(vi) The Speaker may refuse to propose an amendment which is, in his opinion, frivolous or meaningless,

(vii) An amendment may be moved to an amendment which has already been proposed by the Speaker.

Sanction or recommendation of President to be annexed to notice of amendment.

81. If any member desires to move an amendment which under the Constitution cannot be moved without the previous sanction or recommendation of the President, he shall annex to the notice required by these rules such sanction or recommendation conveyed through a Minister and the notice shall not be valid until this requirement is complied with:

Provided that no previous sanction or recommendation of the President shall be required, if an amendment seeks to—

(a) abolish or reduce the limits of the tax proposed in the Bill or amendment, or

(b) increase such tax up to the limits of an existing tax.

Communication of the order of President.

82. The order of the President, granting or withholding the sanction or recommendation to an amendment to a Bill, shall be communicated to the Secretary by the Minister concerned in writing.

Selection of new clauses or amendments.

83. The Speaker shall have power to select the new clauses or amendments to be proposed, and may, if he thinks fit, call upon any member who has given notice of an amendment to give such explanation of the object of the amendment as may enable him to form a judgment upon it.

Arrangement of amendments.

84. Amendments of which notice has been given shall, as far as practicable, be arranged in the list of amendments, issued from time to time, in the order in which they may be called. In arranging amendments raising the same question at the same point of a clause, precedence may be given to an amendment moved by the member in charge of the Bill. Subject as aforesaid, amendments may be arranged in the order in which notices thereof are received.

Order of amendments.

85. (1) Amendments shall ordinarily be considered in the order of the clauses of the Bill to which they respectively relate ; and in respect of any such clause a motion shall be deemed to have been made : "That this clause stand part of the Bill".

(2) The Speaker may, if he thinks fit, put as one question similar amendments to a clause :

Provided that if a member requests that any amendment be put separately, the Speaker shall put that amendment separately.

Mode of moving amendments.

86. When a motion that a Bill be taken into consideration has been carried, any member may, when called upon by the Speaker, move an amendment to the Bill of which he has previously given notice :

Provided that in order to save time and repetition of arguments, a single discussion may be allowed to cover a series of inter-dependent amendments,

Withdrawal of amendments.

87. An amendment moved may, by leave of the House, but not otherwise, be withdrawn, on the request of the member moving it. If an amendment has been proposed to an amendment, the original amendment shall not be withdrawn until the amendment proposed to it has been disposed of.

Submission of Bill clause by clause.

88. Notwithstanding anything contained in these rules, the Speaker may, when a motion that a Bill be taken into consideration has been carried submit the Bill, or any part of the Bill, to the House clause by clause. The Speaker may call each clause separately, and, when the amendments relating to it have been dealt with, shall put the question : "That this clause (or, that this clause as amended, as the case may be) stand part of the Bill".

Postponement of clause.

89. The Speaker may, if he thinks fit, postpone the consideration of a clause.

Consideration of schedule.

90. The consideration of the schedule or schedules, if any, shall follow the consideration of clauses. Schedules shall be put from the Chair, and may be amended, in the same manner as clauses, and the consideration of new schedules shall follow the consideration of the original schedules. The question shall then be put : "That this schedule (or, that this schedule as amended, as the case may be) stand part of the Bill" :

Provided that the Speaker may allow the schedule or schedules, if any, being considered before the clauses are disposed of or along with a clause or otherwise as he may think fit.

Voting on group of clauses and schedules.

91. The Speaker may, if he thinks fit, put as one question clauses and/or schedules, or clauses and/or schedules as amended, as the case may be, together to the vote of the House :

Provided that if a member requests that any clause or schedule, or any clause or schedule as amended, as the case may be, be put separately, the Speaker shall put that clause or schedule, or clause or schedule as amended, as the case may be, separately.

Clause one, Enacting Formula, Preamble and Title of Bill.

92. Clause one, the Enacting Formula, the Preamble, if any, and the Title of a Bill shall stand postponed until the other clauses and schedules (including new clauses and new schedules) have been disposed of and the Speaker shall then put the question : "That clause one, or the Enacting Formula, or the Preamble or the Title (or, that clause one, Enacting Formula, Preamble or Title as amended, as the case may be) do stand part of the Bill".

(e) *Passing of Bills*

Passing of Bill.

93. (1) When a motion that a Bill be taken into consideration has been carried and no amendment of the Bill is made, the member in charge may at once move that the Bill be passed.

(2) Where a Bill has undergone amendments the motion that the Bill as amended be passed shall not be moved on the same day on which the consideration of the Bill is concluded, unless the Speaker allows the motion to be made.

(3) To such a motion no amendment may be moved which is not either formal, verbal or consequential upon an amendment made after the Bill was taken into consideration.

Scope of Debate.

94. The discussion on a motion that the Bill or the Bill as amended, as the case may be, be passed shall be confined to the submission of arguments either in support of the Bill or for the rejection of the Bill. In making his speech a member shall not refer to the details of the Bill further than is necessary for the purpose of his arguments which shall be of a general character.

Correction of patent errors.

95. Where a Bill is passed by the House, the Speaker shall have power to correct patent errors and make such other changes in the Bill as are consequential upon the amendments accepted by the House.

Transmission to Council of Bills passed to House.

96. (1) When a Bill is passed by the House, it shall be trnsmitted to the Council for concurrence with a message to that effect.

(2) The Secretary shall certify, on top of the first page of the Bill so transmitted to the Council, in the following form:—

'This Bill has been passed by the House of the People on the.....19 .
Dated the 19 . Secretary.'

Provided that if it is a Money Bill within the meaning of Article 110 of the Constitution the certificate by the Speaker shall be endorsed at the end of the Bill in the following form:

'I hereby certify that this Bill is a Money Bill within the meaning of Article 110 of the Constitution of India.

Dated the 19 . Speaker'.

Message re: Bills other than Money Bills.

97. If a Bill other than a Money Bill passed by the House and transmitted to the Council is passed by the Council without amendment, the message received from the Council to that effect shall be reported by the Secretary to the House.

(f) *Bills other than Money Bills returned by the Council*

Bill returned-with amendments.

98. If a Bill other than a Money Bill passed by the House and transmitted to the Council is returned to the House with amendments, it shall on receipt be laid on the Table.

Notice of motion for consideration of amendments.

99. After the amended Bill has been laid on the Table, any Minister in the case of a Government Bill, or in any other case any member may, after giving two days' notice, or with the consent of the Speaker without notice, move that the amendments be taken into consideration.

Procedure on consideration of amendments.

100. (1) If a motion that the amendments taken into consideration is carried the Speaker shall put the amendments to the House in such manner as he thinks most convenient for their consideration.

(2) An amendment relevant to the subject-matter of an amendment made by the Council may be moved, but no further amendment shall be moved to the Bill unless it is consequential upon, or an alternative to, an amendment made by the Council.

Disposal of amendment.

101. The House, if it agrees to the amendment made by the Council, shall send a message to the Council to that effect, but if it disagrees with that amendment or proposes further amendment or an alternative amendment, the House shall return the Bill or the Bill as further amended to the Council with a message to that effect.

Disagreement between Houses.

102. If the Bill is returned to the House with a message that the Council insists on an amendment or amendments to which the House has disagreed, the Houses shall be deemed to have finally disagreed as to the amendment or amendments.

(g) *Money Bills returned by the Council*

Money Bill returned without recommendation.

103. If a Money Bill passed by the House and transmitted to the Council is returned to the House without recommendation, the message to that effect shall be reported to the House by the Secretary and the Bill shall be presented to the President for his assent.

Money Bill returned with recommendation.

104. If a Money Bill passed by the House and transmitted to the Council is returned to the House with amendments recommended by the Council, it shall on receipt be laid on the Table.

Notice of motion for consideration of amendments recommended by Council.

105. After the Bill with amendments as recommended by the Council has been laid on the Table, any Minister in the case of a Government Bill, or in any other case any member may, after giving two days' notice, or with consent of the Speaker without notice, move that the amendments recommended by the Council be taken into consideration.

Procedure on consideration of amendments recommended by Council.

106. If a motion that the amendments as commended by the Council be taken into consideration is carried, the Speaker shall put the amendments as recommended by the Council to the House in such manner as he thinks most convenient for their consideration.

Disposal of amendment recommended by Council.

107. If the House accepts any amendment or amendments as recommended by the Council, the Bill shall be deemed to have been passed by both Houses with the amendment or amendments recommended by the Council and accepted by the House and a message to that effect shall be sent to the Council.

Disagreement between Houses.

108. If the House does not accept any of the recommendations of the Council, the Bill shall be deemed to have been passed by both the Houses in the form in which it was passed by the House without any of the amendments recommended by the Council and a message to that effect shall be sent to the Council.

(h) *Adjournment of Debate on and Withdrawal and Removal of Bills.*

Adjournment of debate on Bill.

109. At any stage of a Bill which is under discussion in the House, a motion that the debate on the Bill be adjourned may be moved with the consent of the Speaker.

Withdrawal of Bill.

110. The member in charge of a Bill may at any stage of the Bill move for leave to withdraw the Bill on the ground that—

(a) the legislative proposal contained in the Bill is to be dropped ; or

(b) the Bill is to be replaced subsequently by a new Bill which substantially alters the provisions contained therein ; or

(c) the Bill is to be replaced subsequently by another Bill which includes all or any of its provisions in addition to other provisions ;

and if such leave is granted no further motion shall be made with reference to the Bill :

Provided that where a Bill is under consideration by a Select Committee of the House or a Joint Committee of the Houses, as the case may be, notice of any

motion for the withdrawal of the Bill shall automatically stand referred to the Committee and after the Committee has expressed its opinion in a report to the House, the motion shall be set down in the list of business :

Provided further that where a Bill has originate in the Council and is pending before the House, the member in charge shall move a motion in the House recommending to the Council that the Council do agree to leave being granted by the Bill and after the motion is adopted by the House and concurred in by the Council, the member in charge shall move for leave to withdraw the Bill.

Explanatory statement by member who moves or opposes withdrawal motion.

111. If a motion for leave to withdraw a Bill is opposed, the Speaker may, if he thinks fit, permit the member who moves and the member who opposes the motion to make brief explanatory statements and may thereafter, without further debate, put the question.

Removal of Bill from Register of Bills.

112. (1) Where any of the following motions made by the member in charge under these rules in regard to a Bill is rejected by the House, no further motion shall be made with reference to the Bill and such Bill shall be removed from the Register of Bills pending in the House for the session :—

(i) that leave be granted to introduce the Bill ;

(ii) that the Bill be referred to a Select Committee ;

(iii) that the Bill be referred to a Joint Committee of the Houses with the Concurrence of the Council ;

(iv) that the Bill be taken into consideration ;

(v) that the Bill as reported by Select Committee of the House or Joint Committee of the Houses, as the case may be, be taken into consideration ; and

(vi) that the Bill (or, that the Bill as amended as the case may be) be passed.

(2) A Bill pending before the House shall also be removed from the Register of Bills pending in the House in case a Bill substantially identical is passed by the House or the Bill is withdrawn under rule 110.

Explanation.—A Bill pending before the House shall include—

(i) a Bill introduced in the House which does not fall within the categories of Bills mentioned in this rule of rule 113 ;

(ii) a Bill transmitted to the Council and returned by the Council with amendment, or the recommendation, as the case may be, and laid on the Table under rule 98 or 104 ;

(iii) a Bill originating in the Council and transmitted to the House and laid on the Table under rule 114 or 122 ; and

(iv) a Bill returned by the President with a message under Article 111 of the Constitution.

Special provision for removal of private member's Bill from Register of Bills.

113. A private member's Bill pending before the House shall also be removed from the Register of Bills pending in the House in case—

(a) the member in charge ceases to be a member of the House ;

(b) the member in charge is appointed a Minister.

II. Bills originating in the Council and transmitted to the House

Laying of the Bill on the Table.

114. When a Bill originating in the Council has been passed by the Council and is transmitted to the House the Bill shall, as soon as may be, be laid on the Table.

Notice.

115. At any time after the Bill has been so laid on the Table, any Minister in the case of a Government Bill, or, in any other case, any member may give notice of his intention to move that the Bill be taken into consideration.

Motion for consideration.

116. On the day *on* which the motion for consideration is set down in the list of business which shall, unless the Speaker otherwise directs, be not less than two day from the receipt of the notice, the member giving notice may move that the Bill be taken into consideration.

Discussion.

117. On the day on which such motion is made or on any subsequent day to which the discussion is postponed, the principle of the Bill and its general provisions may be discussed, but the details of the Bill shall not be discussed further than is necessary to explain its principle.

Reference to Select Committee.

118. Any member may, if the Bill has not already been referred to a Joint Committee of both the Houses, move as an amendment that the Bill be referred to a Select Committee and, if such motion is carried, the Bill shall be referred to a Select Committee, and the Rules regarding Select Committee on Bills originating in the House shall then apply.

Consideration and passing of Bills.

119. If the motion that the Bill be taken into consideration is carried, the Bill shall be taken into consideration clause by clause and the provisions of the rules of the House regarding consideration of amendments to Bills and the subsequent procedure in regard to the passing of Bills shall apply.

Bill passed without amendment.

120. If the Bill is passed without amendment, a message shall be sent to the Council intimating that the House has agreed to the Bill without any amendment.

Bill passed with amendments.

121. (1) If the Bill is passed with amendments, the Bill shall be returned with a message asking the concurrence of the Council in the amendments.

(2) The Secretary shall certify, on top of the first page of the Bill so returned to the Council, in the following form :—

'This Bill has been passed as amended by the House of the People on the... Dated.....19 . . Secretary'.

Procedure consequent on consideration of amendments.

122. If the Council disagrees with the amendments made by the House or any of them, or agrees to any of the amendments made by the House with further amendments, or proposes further amendments in place of amendments made by the House, the Bill as further amended shall on receipt by the House be laid on the Table.

Motion for consideration of amendments.

123. After the amended Bill has been laid on the Table, any Minister in the case of a Government Bill, or, in any other case, any member may, after giving two days' notice, or with the consent of the Speaker without notice, move that the amendments be taken into consideration,

124. (1) If a motion that the amendments be taken into consideration is carried, the Speaker shall put the amendments to the House in such manner as he thinks most convenient for their consideration.

Procedure on consideration of amendments.

(2) An amendment relevant to the subject matter of an amendment made by the Council may be moved, but no further amendment shall be moved to the Bill, unless it is consequential upon, or an alternative to, an amendment made by the Council.

125. The House may either agree to the Bill as originally passed by the Council or as further amended by the Council, as the case may be, or may return the Bill with a message that it insists on an amendment or amendments to which the Council has disagreed.

Disposal of amendments.

126. If a Bill is returned with a message intimating that the House insists on amendments to which the Council is unable to agree, the Houses shall be deemed to have finally disagreed as to the amendments.

Disagreement between Houses.

127. When any of the following motions moved in the House with reference to a Bill originating in the Council and transmitted to the House is negatived by the House, the Bill shall be deemed to have been rejected by the House :

Rejection of Bill.

(i) that the Bill be taken into consideration ;

(ii) that the Bill be referred to a Select Committee ;

(iii) that the Bill as reported by Select Committee be taken into consideration ; and

(iv) that the Bill (or, 'that the Bill as amended' as the case may be) be passed.

III. Authentication of Bills

128. (1) When a Bill is passed by the Houses and is in possession of the House, the Bill shall be signed in duplicate by the Speaker and presented to the President :

Authentication of Bill.

Provided that in the absence of the Speaker from New Delhi, the Secretary may, in case of urgency, authenticate the Bill on behalf of the Speaker.

(2) One copy of the Bill so assented to by the President shall be preserved for verification and record and shall not be allowed to pass out of the custody of the House without the permission of the Speaker.

IV. Reconsideration of Bills returned by the President

(a) *Bills originating in the House*

129. (1) When a Bill passed by the Houses is returned to the House by the President with a message requesting that the House should reconsider the Bill or any specified provisions thereof or any such amendments as are recommended in his message, the Speaker shall read the message of the President in the House if in session, or if the House is not in session, direct that it may be published in the Bulletin for the information of the members.

Message of President.

(2) The Bill as passed by the Houses and returned by the President for reconsideration shall thereafter be laid on the Table.

Notice of motion for consideration of amendments.

130. At any time after the Bill has been so laid on the Table, any Minister in the case of a Government Bill, or, in any other case, any member may give notice of his intention to move that the amendments recommended by the President be taken into consideration.

Motion for consideration.

131. On the day on which the motion for consideration is set down in the list of business which shall, unless the Speaker otherwise directs, be not less than two days from the receipt of the notice, the member giving notice may move that the amendments be taken into consideration.

Scope of debate.

132. The debate on such a motion shall be confined to consideration of matters referred to in the message of the President or to any suggestion relevant to the subject matter of the amendments recommended by the President.

Consideration of amendments.

133. If the motion that the amendments recommended by the President be taken into consideration is carried, the Speaker shall put the amendments to the House in such manner as he thinks most convenient for their consideration.

Procedure on consideration of amendments.

134. An amendment relevant to the subject matter of an amendment recommended by the President may be moved, but no further amendment shall be moved to the Bill unless it is consequential upon, incidental or alternative to, an amendment recommended by the President.

Passing again of Bill.

135. When all the amendments have been disposed of, the member giving notice of the motion under rule 130 may move that the Bill as originally passed by the Houses be passed again, or passed again as amended, as the case may be.

Disagreement of House with message.

136. If the motion that the amendments recommended by the President be taken into consideration is not carried, the member giving notice of the motion under rule 130 may at once move that the Bill as originally passed by the Houses be passed again without amendment.

Transmission to Council of Bill passed again.

137. (1) When the bill is passed again by th House with or without amendment, as the case may be, it shall be transmitted to the Council for concurrence with a message to that effect.

(2) The Secretary shall certify, on the top of the first page of the Bill so transmitted to the Council, in the following form :—

'This Bill which was passed by the Houses of Parliament and returned by the President for reconsideration has been passed again with/ without amendment by the House of the People on the.....19 .

Dated the.....19 . Secretary'.

Message from Council re: passing again of Bill.

138. If the Bill passed again by the House and transmitted to the Council is passed again by the Council without amendment, the message received from the Council to that effect shall be reported by the Secretary to the House.

Bill returned by Council with amendments.

139. If the Bill passed again by the House and transmitted to the Council is returned to the House with amendments, it shall on receipt be laid on the Table.

Motion for consideration of amendments.

140. After the amended Bill has been laid on the Table, any Minister in the case of a Government Bill, or, in any other case, any member may, after giving two days' notice, or with the consent of the Speaker without notice move that the amendments be taken into consideration.

Procedure for consideration of amendments made by Council.

141. (1) If a motion that the amendments be taken into consideration is carried, the Speaker shall put the amendments to the House in such manner as he thinks most convenient for their consideration.

(2) An amendment relevant to the subject matter of an amendment made by the Council may be moved, but no further amendment shall be moved to the Bill unless it is consequential upon, incidental or altrenative to, an amendment made by the Council,

Disposal of amendment.

142. The House, if it agrees to the amendment made by the Council, shall send a message to the Council to that effect, but if it disagrees with that amendment or proposes further amendment or an alternative amendment, the House shall return the Bill or the Bill as further amended to the Council with a message to that effect.

Disagreement between Houses.

143. If the Bill is returned to the House with a message that the Council insists on an amendment or amendments to which the House has disagreed, the Houses shall be deemed to have finally disagreed as to the amendment or amendments.

(*b*) *Bills originating in the Council*

Bill originating in Council and passed again by Council and transmitted to House.

144. When a Bill passed by Houses which has been returned by the President to the Council for reconsideration, has been passed again with or without amendments by the Council and transmitted to the House, the Bill together with the President's message, shall, as soon as may be, be laid on the Table.

Notice.

145. At any time after the Bill together with the President's message has been so laid on the Table, any Minister in the case of a Government Bill or, in any other case, any member may, after giving two days' notice or with the consent of the Speaker without notice, move that the Bill as passed again by the Council be taken into consideration.

Procedure for consideration of amendments.

146. (1) If the motion that the Bill as passed again by the Council be taken into consideration is carried, the Speaker shall put to the House the amendments, if any, made to the Bill by the Council in such manner as he thinks most convenient for their consideration.

(2) An amendment relevant to the subject-matter of an amendment made by the Council may be moved, but no further amendment shall be moved unless it is consequential upon, incidental or alternative to, an amendment made by the Council:

Provided that if the Council has not agreed to an amendmen recommended

by the President any member may move an amendment relevant to the subject matter of the amendment recommended by the President.

Bill passed again without amendment.

147. If the Bill passed again by the Council is passed again by the House without amendment, a message shall be sent to the Council to that effect.

Bill passed again with amendments.

148. If the Bill is passed again by the House with amendments, the Bill shall be returned to the Council with a message asking the concurrence of the Council in such amendments

Procedure consequent on consideration of amendments.

149. If the Council disagrees with the amendments made by the House or any of them, or agrees to any of the amendments made by the House with further amendments, or proposes further amendments in place of amendments made by the House, the Bill as further amended shall on receipt by the House be laid on the Table.

Passing again of Bill after reconsideration by Council.

150. After the amended Bill has been so laid on the Table, any Minister in the case of a Government Bill, or, in any other case, any member may, after giving two days' notice, or with the consent of the Speaker without notice, move that the amendments be taken into consideration.

Procedure on consideration of amendments.

151. (1) If a motion that the amendments be taken into consideration is carried, the Speakar shall put the amendments to the House in such manner as he thinks most convenient for their consideration.

(2) An amendment relevant to the subject matter of the amendments made by the Council may be moved but no further amendment shall be moved to the Bill, unless it is consequential upon, incidental or alternative to, an amendment made by the Council.

Disposal of amendments.

152. The House may agree to the Bill as passed again by the Council or as further amended by the Council, as the case may be, or may return the Bill with a message that it insists on an amendment or amendments to which the Council has disagreed.

Disagreement between Houses.

153. If the Bill is returned with a message that the House insists on an amendment or amendments to which the Council is unable to agree, the Houses shall be deemed to have finally disagreed as to the amendment or amendments.

(c) *Authentication of Bills passed again by the Houses*

Authentication of Bill passed again by Houses.

154. When a Bill is passed again by the Houses and is in possession of the House, the Bill shall be signed in duplicate by the Speaker and presented to the President in the following form :—

'The above Bill has been passed again by the Houses of Parliament in pursuance of the proviso to Article 111 of the Constitution.

Date.....19 . Speaker' :

Provided that in the absence of the Speaker from New Delhi, the Secretary may, in case of urgency, authenticate the Bill on behalf of the Speaker.

CHAPTER XI

Bills seeking to amend the Constitution

Voting on clauses and Schedules.

155 Each clause or schedule, or clause or schedule as amended, as the case may be, shall be put to the vote of the House separately and shall form part of the Bill if it is passed by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting :

Provided that the Speaker may, with the concurrence of the House, put clauses and/or schedules, or clauses and/or schedules as amended, as the case may be, together to the vote of the House in which case the result of the voting shall be taken as applicable to each clause or schedule separately and so indicated in the proceedings :

Provided further that if a member requests that any clause or schedule, or any clause or schedule as amended, as the case may be, be put separately, the Speaker shall put that clause or schedule, or clause or schedule as amended, as the case may be, separately :

Provided further that the Short Title, the Enacting Formula and the Long Title may be adopted by a simple majority.

Voting on amendments.

156. Amendments to clauses or schedules shall be decided by a majority of members present and voting in the same manner as in the case of any other Bill.

Voting on motions.

157. If the motion in respect of such Bill is that—

(i) the Bill be taken into consideration ; or

(ii) the Bill as reported by the Select Committee of the House or the Joint Committee of the Houses, as the case may be, be taken into consideration ; or

(iii) the Bill, or the Bill as amended, as the case may be, be passed ;

then the motion shall be deemed to have been carried if it is passed by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting.

Voting by division.

158. (1) Voting shall be by division whenever a motion has to be carried by a majority of the total membership of the House and by majority of not less than two-thirds of the members present and voting.

(2) If the result of the voting shows that the majority of the total membership of the House and the majority of not less than two-thirds of the members present and voting are in favour of the motion, the Speaker shall, while announcing the result, say that the motion is carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting.

Residuary procedure.

159. In all other respects, the procedure laid down in these rules with respect to other Bills shall apply.

Explanation.—The expression "total membership" referred to in these rules means the total number of members comprising the House irrespective of the fact whether there are vacancies or absentees on any account.

CHAPTER XII

PETITIONS

Scope of petitions.

160. Petitions may be presented or submitted to the House with the consent of the Speaker on—

(i) a Bill which has been published under rule 64 or which has been introduced in the House;

(ii) any matter connected with the business pending before the House; and

(iii) any matter of general public interest provided that it is not one:—

(a) which falls within the cognizance of a court of law having jurisdiction in any part of India or a court of enquiry or a statutory tribunal or authority or a quasi-judicial body, or a commission;

(b) which should ordinarily be raised in a State Legislature;

(c) which can be raised on a substantive motion or resolution; or

(d) for which remedy is available under the law, including rules, regulations, bye-laws made by the Central Government or an authority to whom power to make such rules, regulations, etc. is delegated.

General form of petition.

161. (1) The general form of petition set out in the First Schedule, with such variations as the circumstances of each case require, may be used, and, if used, shall be sufficient.

(2) Every petition shall be couched in respectful, decorous and temperate language.

(3) Every petition shall be either in Hindi or in English. If any petition in any other Indian language is made, it shall be accompanied by a translation either in Hindi or in English, and signed by the petitioner.

Authentication of petition.

162. The full name and address of every signatory to a petition shall be set out therein and shall be authenticated by his signature, and if illiterate by his thumb impression.

Documents not to be attached.

163. Letters, affidavits or other documents shall not be attached to any petition.

Counter-signature.

164. (1) Every petition shall, if presented by a member, be countersigned by him. If a petition is made in any Indian language other than Hindi or English, its translation in Hindi or English shall also be countersigned by the member presenting it.

(2) A member shall not present a petition from himself.

Petition to be addressed to House.

165. Every petition shall be addressed to the House and shall conclude with a prayer reciting the definite object of the petitioner in regard to the matter to which it relates.

Notice of presentation.

166. A member shall give advance intimation to the Secretary of his intention to present a petition.

Presentation of petition.

167. A petition may be presented by a member or be forwarded to the Secretary, who shall report it to the Houses. The report shall be made in the from set out in the Second Schedule. No debate shall be permitted on the presentation, or the making of such report.

From of petition.

168. A member presenting a petition shall confine himself to a statement in the following from :—

"Sir, I beg to present a petition signed by.....petitioner (s) regarding....."

and no debate shall be permitted on this statement.

Reference to Committee on Petitions.

169. Every petition shall, after presentation by a member or report by the Secretary, as the case may be, stand referred to the Committee on Petitions.

[For rules relating to Committee on Petitions, see Chapter XXVI of these rules.]

CHAPTER XIII

RESOLUTIONS

Notice of resolution.

170. A member other than a Minister who wishes to move a resolution shall give fifteen clear days' notice of his intention and shall, together with the notice, submit the text of the resolution which he wishes to move:

Provided that the Speaker may allow it to be entered in the list of business with notice shorter than fifteen days.

Form of resolution.

171. A resolution may be in the form of a declaration of opinion, or a recommendation; or may be in the form so as to record either approval or disapproval by the House of an act or policy of Government, or convey a message; or commend, urge or request an action; or call attention to a matter or situation for consideration by Government ; or in such other form as the Speaker may consider appropriate.

Subject matter of resolution.

172. Subject to the provisions of these rules, a member or a Minister may move a resolution relating to a matter of general public interest.

Conditions of admissibility of resolution.

173. In order that a resolution may be admissible, it shall satisfy the following conditions, namely:—

(i) it shall be clearly and precisely expressed ;

(ii) it shall raise substantially one definite issue ;

(iii) it shall not contain arguments, inferences, ironical expressions, imputations or defamatory statements ;

(iv) it shall not refer to the conduct or character of persons except in their official or public capacity; and

(v) it shall not relate to any matter which is under adjudication by a court of law having jurisdiction in any part of India.

Speaker to decide admissibility of resolution.

174. The Speaker shall decide whether a resolution or a part thereof is not admissible under these rules and may disallow any resolution or a part thereof when in his opinion it is an abuse of the right of moving a resolution or calculated to obstruct or prejudicially affect the procedure of the House or is in contravention of these rules.

Raising discussion on matters before tribunals, commissions etc.

175. No resolution which seeks to raise discussion on a matter pending before any statutory tribunal or statutory authority performing any judicial or quasi-judicial functions or any commission or court of enquiry appointed to enquire into, or investigate, any matter shall ordinarily be permitted to be moved:

Provided that the Speaker may, in his discretion, allow such matter being raised in the House as is concerned with the procedure or subject or stage of enquiry, if the Speaker is satisfied that it is not likely to prejudice the consideration of such matter by the statutory tribunal, statutory authority, commission or court of enquiry.

Moving of resolution.

176. (1) A member in whose name a resolution stands on the list of business shall, except when he wishes to withdraw it, when called upon, move the resolution, and shall commence his speech by a formal motion in the terms appearing in the list of business.

(2) A member may, with the permission of the Speker, authorise any other member, in whose name the same resolution stands lower in the list of business, to move it on his behalf and the member so authorised may move it accordingly.

(3) If a member other than a Minister when called on is absent, any other member authorised by him in writing in his behalf may, with the permission of the Speaker, move the resolution standing in his name.

Amendments.

177. (1) After a resolution has been moved, any member may, subject to the rules relating to resolutions, move an amendment to the resolution.

(2) If notice of such amendment has not been given one day previous to the day on which the resolution is moved, any member may object to the moving of the amendment, and such objection shall prevail. unless the Speaker allows the amendment to be moved.

(3) The Secretary shall, if time permits, make available to members from time to time lists of amendments of which notices have been received.

Time limit fot speeches.

178. No speech on a resolution shall, except with permission of the Speaker, exceed fifteen minutes in duration:

Provided that the mover of a resolution, when moving the same and the Minister concerned when speaking for the first time, may speak for thirty minutes or for such longer time as the Speaker may permit.

Scope of discussion.

179. The discussion on a resolution shall be strictly relevant to and within the scope of the resolution.

Withdrawal of resolution and amendment.

180. (1) A member in whose name a resolution stands on the list of business may, when called upon, withdraw the resolution, and shall confine himself to a mere statement to that effect.

(2) A member who has moved a resolution or amendment to a resolution shall not withdraw the same except by leave of the House,

(3) If a resolution which has been admitted is not discussed during the session it shall be deemed to have been withdrawn.

Splitting of resolution.

181. When any resolution involving several points has been discussed, the Speaker may divide the resolution, and put each or any point separately to the vote, as he may think fit.

Repetition of resolution.

182. (1) When a resolution has been moved no resolution or amendment raising substantially the same question shall be moved within one year from the date of the earlier resolution.

(2) When a resolution has been withdrawn with the leave of the House, no resolution raising substantially the same question shall be moved during the same session.

Copy of resolution passed to be sent to Minister.

183. A copy of every resolution which has been passed by the House shall be forwarded to the Minister concerned.

CHAPTER XIV

MOTIONS

Discussion on a matter of public interest.

184. Save in so far as is otherwise provided in the Constitution or in these rules, no discussion of a matter of general public interest shall take place except on a motion made with consent of the Speaker.

Notice of motion.

185. Notice of a motion shall be given in writing addressed to the Secretary.

Conditions of admissibility of motion.

186. In order that a motion may be admissible it shall satisfy the following conditions, namely :—

(i) it shall raise substantially one definite issue ;

(ii) it shall not contain arguments, inferences, ironical expressions, imputations or defamatory statements ;

(iii) it shall not refer to the conduct or character of persons except in their public capacity ;

(iv) it shall be restricted to a matter of recent occurrence ;

(v) it shall not raise a question of privilege ;

(vi) it shall not revive discussion of a matter which has been discussed in the same session :

(vii) it shall not anticipate discussion of a matter which is likely to be discussed in the same session ;

(viii) it shall not relate to any matter which is under adjudication by a court of law having jurisdiction in any part of India.

Speaker to decide admissibility of motion.

187. The Speaker shall decide whether a motion or a part thereof is or is not admissible under these rules and may disallow any motion or a part thereof when in his opinion it is an abuse of the right of moving a motion or is calculated to obstruct or prejudicially affect the procedure of the House or is in contravention of these rules.

Motion for raising discussion on matters before tribunals, commissions etc.

188. No motion which seeks to raise discussion on a matter pending before any statutory tribunal or statutory authority performing any judicial or quasi-judicial functions or any commission or court of enquiry appointed to enquire into, or investigate, any matter shall ordinarily be permitted to be moved :

Provided that the Speaker may, in his discretion, allow such matter being raised in the House as is concerned with the procedure or subject or stage of enquiry if the Speaker is satisfied that it is not likely to prejudice the consideration of such matter by the statutory tribunal, statutory authority, commission or court of enquiry.

Circulation of No-Day-Yet-Named Motions.

189. If the Speaker admits notice of a motion and no date is fixed for the discussion of such motion, it shall be immediately notified in the Bulletin with the heading : 'No-Day-Yet-Named Motions'.

Allotment of time and discussion of motions.

190. The Speaker may, after considering the state of business in the House and in consultation with the Leader of the House, allot a day or days or part of a day for the discussion of any such motion.

Speaker to put question at the appointed time.

191. The Speaker shall, at the appointed hour on the allotted day or the last of the allotted days, as the case may be, forthwith put every question necessary to determine the decision of the House on the original question.

Time limit for speeches.

192. The Speaker may, if he thinks fit, prescribe a time limit for speeches.

CHAPTER XV

DISCUSSION ON MATTERS OF URGENT PUBLIC IMPORTANCE FOR SHORT DURATION

Notice of raising discussion.

193. Any member desirous of raising discussion on a matter of urgent public importance may give notice in writing to the Secretary specifying clearly and precisely the matter to be raised :

Provided that the notice shall be accompanied by an explanatory note stating reasons for raising discussion on the matter in question :

Provided further that the notice shall be supported by the signatures of at least two other members.

Speaker to decide admissibility.

194. If the Speaker is satisfied, after calling for such information from the member who has given notice and from the Minister as he may consider necessary, that the matter is urgent and is of sufficient improtance to be raised in the House at an early date, he may admit the notice and in consultation with the Leader of the House fix the date on which such matter may be taken up for discussion and allow such time for discussion, not exceeding two and a half hours, as he may consider appropriate in the circumstances :

Provided that if an early opportunity is otherwise available for the discussion of the matter, the Speaker may refuse to admit the notice.

No formal motion.

195. There shall be no formal motion before the House nor voting. The member who has given notice may make a short statement and the Minister shall reply shortly. Any member who has previously intimated to the Speaker may be permitted to take part in the discussion.

Time limit for speeches.

196. The Speaker may, if he thinks fit, prescribe a time limit for the speeches.

CHAPTER XVI

CALLLING ATTENTION TO MATTERS OF URGENT PUBLIC IMPORTANCE

Calling attention to matters of urgent public importance.

197. (1) A member may, with the previous permission of the Speaker, call the attention of a Minister to any matter of urgent public importance and the Minister may make a brief statement or ask for time to make a statement at a later hour or date.

(2) There shall be no debate on such statement at the time it is made.

(3) Not more than one such matter shall be raised at the same sitting.

(4) In the event of more than one matter being presented for the same day, priority shall be given to the matter which is, in the opinion of the Speaker, more urgent and important.

(5) The proposed matter shall be raised after the questions and before the list of business is entered upon and at no other time during the sitting of the House.

CHAPTER XVII

MOTION OF NO-CONFIDENCE IN MINISTERS AND STATEMENT BY A MINISTER WHO HAS RESIGNED

Motion of no-confidence in Ministers.

198. (1) A motion expressing want of confidence in the Council of Ministers may be made subject to the following restrictions, namely :—

(a) leave to make the motion shall be asked for after questions and before the list of business for the day is entered upon ;

(b) the member asking for leave shall, before the commencement of the sitting for that day, give to the Secretary a written notice of the motion which he proposes to move.

(2) If the Speaker is of opinion that the motion is in order, he shall read the motion to the House and shall request those members who are in favour of leave being granted to rise in their places, and if not less than fifty members rise accordingly, the Speaker shall declare that leave is granted and that the motion will be taken up on such day, not being more than ten days from the date on

which the leave is asked for, as he may appoint. If less than fifty members rise, the Speaker shall inform the member that he has not the leave of the House.

(3) If leave is granted under sub-rule (2), the Speaker may, after considering the state of business in the House, allot a day or days or part of a day for the discussion of the motion.

(4) The Speaker shall, at the appointed hour on the allotted day or the last of the allotted days, as the case may be, forthwith put every question necessary to determine the decision of the House on the motion.

(5) The Speaker may, if he thinks fit, prescribe a time limit for speeches.

Statement by a Minister who has resigned.

199. (1) A member who has resigned the office of Minister may, with the consent of the Speaker, make a personal statement in explanation of his resignation.

(2) A copy of the statement shall be forwarded to the Speaker and the Leader of the House one day in advance of the day on which it is made :

Provided that in the absence of a written statement, the points or the gist of such statement shall be conveyed to the Speaker and the Leader of the House one day in advance of the day on which it is made.

(3) Such statement shall be made after the questions and before the list of business for the day is entered upon.

(4) There shall be no debate on such statement, but after it has been made, a Minister may make a statement pertinent thereto.

CHAPTER XVIII

RESOLUTION FOR REMOVAL OF SPEAKER OR DEPUTY SPEAKER FROM OFFICE

Notice of resolution for removal of Speaker or Deputy Speaker.

200. (1) A member wishing to give notice of resolution, under clause (c) of Article 94 of the Constitution, for the removal of the Speaker or the Deputy Speaker shall do so in writing to the Secretary.

(2) On receipt of a notice under sub-rule (1) a motion for leave to move the resolution shall be entered in the list of business in the name of the member concerned, on a day fixed by the Speaker, provided that the day so fixed shall be any day after fourteen days from the date of the receipt of notice of the resolution.

Leave of House to take up resolution.

201. (1) Subject to the provisions of Article 96 of the Constitution, the Speaker or the Deputy Speaker or such other person as is referred to in clause (2) of Article 95 of the Constitution shall preside when a motion under sub-rule (2) of rule 200 is taken up for consideration.

(2) The member in whose name the motion stands on the list of business shall, except when he wishes to withdraw it, move the motion when called upon to do so, but no speech shall be permitted at this stage.

(3) The Speaker or the Deputy Speaker or the person presiding, as the case may be, shall thereupon place the motion before the House and shall request those members who are in favour of leave being granted to rise in their places.

If not less than fifty members rise accordingly, the Speaker or the Deputy Speaker or the person presiding, as the case may be, shall declare that leave has been granted and that the resolution will be taken up on such day, not being more than ten days from the date on which leave is asked for, as he may appoint. If less than fifty members rise, the Speaker shall inform the member that he has not the leave of the House.

Inclusion of resolution in the list of business.

202 On the appointed day the resolution shall be included in the list of business to be taken up after the questions and before any other business for the day is entered upon.

Time limit for speeches.

203. Except with the permission of the Speaker or the person presiding, a speech on the resolution shall not exceed fifteen minutes in duration.

Provided that the mover of the resolution when moving the same may speak for such longer time as the Speaker or the person presiding may permit.

CHAPTER XIX

PROCEDURE IN FINANCIAL MATTERS

(a) *The Budget*

The Budget.

204. The Annual Financial Statement or the Statement of the Estimated Receipts and Expenditure of the Government of India in respect of each financial year (hereinafter referred to as "the Budget") shall be presented to the House on such day as the President may direct,

Budget not to be discussed on presentation.

205. There shall be no discussion of the Budget on the day on which it is presented to the House.

(b) *Demands for Grants*

Demands for Grants.

206. (1) A separate demand shall ordinarily be made in respect of the grant proposed for each Ministry, provided that the Finance Minister may include in one demand grants proposed for two or more Ministries or Departments or make a demand in respect of expenditure which cannot readily be classified under particular Ministries.

(2) Each demand shall contain first a statement of the total grant proposed and then a statement of the detailed estimate under each grant divided into items.

(3) The Budget shall be presented to the House in such form as the Finance Minister may, after considering the suggestions, if any, of the Estimates Committee, settle.

General discussion on the Budget.

207. (1) On a day to be appointed by the Speaker subsequent to the day on which the Budget is presented and for such time as the Speaker may allot for this purpose, the House shall be at liberty to discuss the Budget as a whole or any question of principle involved therein, but no motion shall be moved nor shall the Budget be submitted to the vote of the House.

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

(3) The Speaker may, if he thinks fit, prescribe a time limit for speeches.

Voting of demands for grants.

208. (1) The Speaker shall, in consultation with the Leader of the House, allot so many days as may be compatible with the public interest for the discussion and voting of demands for grants.

(2) On the last day of the allotted days, at 17-00 hours, the Speaker shall forthwith put every question necessary to dispose of all the outstanding matters in connection with the demands for grants.

(3) Motions may be moved to reduce any demand for grant.

(4) No amendments to motions to reduce any demand for grant shall be permissible.

(5) When several motions relating to the same demand for grant are offered, they shall be discussed in the order in which the heads to which they relate appear in the Budget.

Cut motions.

209. A motion may be moved to reduce the amount of a demand in any of the following ways:—

(a) "that the amount of the demand be reduced to Re. 1/-" representing disapproval of the policy underlying the demand. Such a motion shall be known as "Disapproval of Policy Cut". A member giving notice of such a motion shall indicate in precise terms the particulars of the policy which he proposes to discuss. The discussion shall be confined to the specific point or points mentioned in the notice and it shall be open to members to advocate an alternative policy;

(b) "that the amount of the demand be reduced by a specified amount" representing the economy that can be effected. Such specified amount may be either a lump sum reduction in the demand or omission or reduction of an item in the demand. The motion shall be known as "Economy Cut". The notice shall indicate briefly and precisely the particular matter on which discussion is sought to be raised and speeches shall be confined to the discussion as to how economy can be effected;

(c) "that the amount of the demand be reduced by Rs. 100/-" in order to ventilate a specific grievance which is within the sphere of the responsibility of the Government of India. Such a motion shall be known as "Token Cut" and the discussion thereon shall be confined to the particular grievance specified in the motion.

Conditions of admissibility of cut motions.

210. In order that a notice of motion for reduction of the amount of demand may be admissible, it shall satisfy the following conditions, namely-

(i) it shall relate to one demand only;

(ii) it shall be clearly expressed and shall not contain arguments, inferences, ironical expressions, imputations, epithets or defamatory statements;

(iii) it shall be confined to one specific matter which shall be stated in precise terms;

(iv) it shall not reflect on the character or conduct of any person whose conduct can only be challenged on a substantive motion;

(v) it shall not make suggestions for the amendment or repeal of existing laws ;

(vi) it shall not refer to a matter which is not primarily the concern of the Government of India;

(vii) it shall not relate to expenditure charged on the Consolidated Fund of India;

(viii) it shall not relate to a matter which is under adjudication by a court of law having jurisdiction in any part of India ;

(ix) it shall not raise a question of privilege ;

(x) it shall not revive discussion on a matter which has been discussed in the same session and on which a decision has been taken ;

(xi) it shall not anticipate a matter which has been previously appointed for consideration in the same session ;

(xii) it shall not ordinarily seek to raise a discussion on a matter pending before any statutory tribunal or statutory authority performing any judicial or quasi-judicial functions or any commission or court of enquiry appointed to enquire into, or investigate, any matter :

Provided that the Speaker may in his discretion allow such matter being raised in the House as is concerned with the procedure or stage of enquiry, if the Speaker is satisfied that it is not likely to prejudice the consideration of such matter by the statutory tribunal, statutory authority, commission or court of enquiry ; and

(xiii) it shall not relate to a trifling matter.

Speaker to decide admissibility of cut motions.

211. The Speaker shall decide whether a cut motion is or is not admissible under these rules and may disallow any cut motion when in his opinion it is an abuse of the right of moving cut motions or is calculated to obstruct or prejudicially affect the procedure of the House or is in contravention of these rules.

Notice of cut motions.

212. If notice of a motion to reduce any demand for grant has not been given one day previous to the day on which the demand is under consideration, any member may object to the moving of the motion, and such objection shall prevail, unless the Speaker allows the motion to be made.

Presentation of Budget in parts.

213. Nothing hereinbefore contained shall be deemed to prevent the presentation of the Budget to the House in two or more parts and when such presentation takes place, each part shall be dealt with in accordance with these rules as if it were the Budget.

Vote on Account.

214. (1) A motion for vote on account shall state the total sum required and the various amounts needed for each Ministry, Department or item of expenditure which compose that sum shall be stated in a schedule appended to the motion.

(2) Amendments may be moved for the reduction of the whole grant or for the reduction or omission of the items whereof the grant is composed.

(3) Discussion of a general character *may* be allowed on the motion or any amendments moved thereto, but the details of the grant shall not be discussed further than is necessary to develop the general points.

(4) In other respects, a motion for vote on account shall be dealt with in the same way as if it were a demand for grant.

Supplementary, additional excess and exceptional grants and votes of credit.

215. Supplementary, additional, excess and exceptional grants and votes of credit shall be regulated by the same procedure as is applicable in the case of demands for grants subject to such adaptations, whether by way of modification, addition or omission, as the Speaker may deem to be necessary or expedient.

Scope of discussion on supplementary grants.

216. The debate on the supplementary grants shall be confined to the items constituting the same and no discussion may de raised on the original grants nor policy underlying them save in so far as it may be necessary to explain or illustrate the particular items under discussion.

Token grant.

217. When funds to meet proposed expenditure on a new service can be made available by re-appropriation, a demand for the grant of a token sum may be submitted to the vote of the House and, if the House assents to the demand, funds may be so made available.

(c) *Appropriation Bill*

Appropriation Bill.

218. (1) Subject to the provisions of the Constitution, the procedure in regard to an Appropriation Bill shall be the same as for Bills generally with such modifications as the Speaker may consider necessary.

(2) At any time after the introduction in the House of an Appropriation Bill, the Speaker may allot a day or days, jointly or severally, for the completion of all or any of the stages involved in tho passage of the Bill by the House, and when such allotment has been made, the Speaker shall, at 17-00 hours on the allotted day or the last of the allotted days, as the case may be, forthwith put every question necessary to dispose of all the outstanding matters in connection with the stage or stages for which the day or days have been allotted.

(3) The Speaker may, if he thinks fit, prescribe a time limit for speeches at all or any of the stages for which a day or days have been allotted under sub-rule (2).

(4) The debate on an Appropriation Bills shall be restricted to matters of public importance or administrative policy implied in the grants covered by the Bill which have not already been raised while the relevant demands for grants were under consideration.

(5) The Speaker may, in order to avoid repetition of debate, require members desiring to take part in discussion on an Appropriation Bill to give advance intimation of the specific points they intend to raise, and he may withhold permission for raising such of the points as in his opinion appear to be repetitions of the matters discussed on a demand for grant or as may not be of sufficient public improtance.

(6) If an Appropriation Bill is in pursuance of a supplementary grant in respect of an existing service, the discussions shall be confined to the items constituting the same, and no discussion shall be raised on the original grant nor the policy underlying it save in so far as it may be necessary to explain or illustrate a particular item under discussion.

(d) *Finance Bill*

Finance Bill.

219. (1) In this rule "Finance Bill" means the Bill ordinarily introduced in each year to give effect to the financial proposals of the Government of India for the next following financial year and includes a Bill to give effect to supplementary financial proposals for any period.

(2) At any time after the introduction in the House of a Finance Bill, the Speaker may allot a day or days, jointly or severally, for the completion of all or any of the stages involved in the passage of the Bill by the House, and when such allotment has been made, the Speaker shall, at 17-00 hours on the allotted day or the last of the allotted days, as the case may be, forthwith put every question necessary to dispose of all the outstanding matters in connection with the stage or stages for which the day or days have been allotted :

Provided that if a Minister has a right of reply to the debate on the motion

which is under discussion at 16-00 hours on that day and has not commenced his reply at that hour, the Speaker shall inquire how much time not exceeding one hour he requires for his reply, and shall call upon any member for the time being addressing the House to resume his seat at such time as will leave available before 17-00 hours the amount of time which the Minister has stated that he requires for his reply.

(3) Where the question or one of the questions required by sub-rule (2) to be put at 17-00 hours on the allotted day or the last of the allotted days is that the Bill be passed, sub-rule (2) shall have effect notwithstanding that amendments to the Bill have been made.

(4) Subject to the proviso to sub-rule (2), the Speaker may, if he thinks fit, prescribe a time limit for speeches at all or any of the stages for which a day or days have been allotted under that sub-rule.

(5) On a motion that the Finance Bill be taken into consideration, a member may discuss matters relating to general administration, local grievances within the sphere of the responsibility of Government of India or monetary or financial policy of Government.

(6) In other respects the rules applicable to Bills in Chapter X of these rules shall apply.

Business that can be taken up on a day allotted for financial business.

220. Notwithstanding that a day has been allotted for other business under rule 207, 208, 218 or 219, a motion or motions for leave to introduce a Bill or Bills may be made and a Bill or Bills may be introduced on such day before the House enters on the business for which the day has been allotted.

Time limit for disposal of financial business.

221. In addition to the powers exercisable under these rules, the Speaker may exercise all such powers as are necessary for the purpose of the timely completion of all financial business including allotment of time for the disposal of various kinds of such business, and where time is so allotted, he shall, at the appointed hour, put every question necessary to dispose of all the outstanding matters in connection with the stage or stages for which time has been allotted.

Explanation.—Financial business includes any business which the Speaker holds as coming within this category under the Constitution.

[For rules relating to Committees on Public Accounts and Estimates, see Chapter XXVI of these rules]

CHAPTER XX

PRIVILEGES

(a) *Question of Privilege*

Question of privilege.

222. A member may, with the consent of the Speaker, raise a question involving a breach of privilege either of a member or of the House or of a Committee thereof.

Notice of question of privilege.

223. A member wishing to raise a question of privilege shall give notice in writing to the Secretary before the commencement of the sitting on the day the question is proposed to be raised. If the question raised is based on a document, the notice shall be accompanied by the document.

Conditions of admissibility of question of privilege.

224. The right to raise a question of privilege shall be governed by the following conditions, namely :—

(i) not more than one question shall be raised at the same sitting ;

(ii) the question shall be restricted to a specific matter of recent occurrence ;

(iii) the matter requires the intervention of the House.

Mode of raising a question of privilege.

225. (1) The Speaker, if he gives consent under rule 222 and holds that the matter proposed to be discussed is in order, shall, after the questions and before the list of business is entered upon, call the member concerned, who shall rise in his place and, while asking for leave to raise the question of privilege, make a short statement relevant thereto :

Provided that where the Speaker has refused his consent under rule 222 or is of opinion that the matter proposed to be discussed is not in order, he may, if he thinks it necessary, read the notice of question of privilege and state that he refuses consent or holds that the notice of question of privilege is not in order:

Provided further that the Speaker may, if he is satisfied about the urgency of the matter, allow a question of privilege to be raised at any time during the course of a sitting after the disposal of questions.

(2) If objection to leave being granted is taken, the Speaker shall request those members who are in favour of leave being granted to rise in their places, and if not less than twenty-five members rise accordingly, the Speaker shall declare that leave is granted. If less than twenty-five members rise, the Speaker shall inform the member that he has not the leave of the House.

Questions of privilege to be considered by House or Committee.

226. If leave under rule 225 is granted, the House may consider the question and come to a decision or refer it to a Committee of Privileges on a motion made either by the member who has raised the question of privilege or by any other member.

Reference of questions of privilege to Committee by Speaker.

227. Notwithstanding anything contained in these rules, the Speaker may refer any question of privilege to the Committee of Privileges for examination, investigation or report.

Power of Speaker to give directions.

228. The Speaker may issue such directions as may be necessary for regulating the procedure in connection with all matters connected with the consideration of the question of privilege either in the Committee of Privileges or in the House.

[For rules relating to Committee of Privileges, see Chapter XXVI of these rules.]

(b) *Intimation to Speaker of arrest, detention etc. and release of a member*

Intimation to Speaker by Magistrate of arrest, detention etc. of a member.

229. When a member is arrested on a criminal charge or for a criminal offence or is sentenced to imprisonment by a court or is detained under an executive order, the committing judge, magistrate or executive authority, as the case may be, shall immediately intimate such fact to the Speaker indicating the reasons for the arrest, detention or conviction, as the case may be, as also the place of detention or imprisonment of the member in the appropriate form set out in the Third Schedule.

Intimation to Speaker on release of a member.

230. When a member is arrested and after conviction released on bail pending an appeal or otherwise released, such fact shall also be intimated to the Speaker by the authority concerned in the appropriate form set out in the Third Schedule.

Treatment of communications received from Magistrate.

231. As soon as may be, the Speaker shall, after he has received a communication referred to in rule 229 or rule 230, read it out in the House if in session, or if the House is not in session, direct that it may be published in the Bulletin for the information of the members:

Provided that if the intimation of the release of a member either on bail or by discharge on appeal is received before the House has been informed of the original arrest, the fact of his arrest, or his subsequent release or discharge may not be intimated to the House by the Speaker.

(c) *Procedure regarding service of a legal process and arrest within the precinct of the House*

Arrest within the precincts of House.

232. No arrest shall be made within the precincts of the House without obtaining the permission of the Speaker.

Service of legal process.

233. A legal process, civil or criminal, shall not be served within the precincts of the House without obtaining the permission of the Speaker.

CHAPTER XXI

SUBORDINATE LEGISLATION

Laying of regulation, rule etc. on the Table.

234. (1) Where a regulation, rule, sub-rule, bye-law etc. framed in pursuance of the Constitution or of the legislative functions delegated by Parliament to a subordinate authority is laid before the House, the period specified in the Constitution or the relevant Act for which it is required to be laid shall be completed before the House is adjourned *sine die* and later prorogued, unless otherwise provided in the Constitution or the relevant Act

(2) Where the specified period is not so completed, the regulation, rule, sub-rule, bye-law etc. shall be re-laid in the succeeding session or sessions until the said period is completed in one session.

Allotment of time for discussion of amendment.

235. The Speaker shall, in consultation with the Leader of the House, fix a day or days or part of a day as he may think fit for the consideration and passing of an amendment to such regulation, rule, sub-rule, bye-law etc. of which notice may be given by a member:

Provided that notice of the amendment shall be in such form as the Speaker may consider appropriate and shall comply with these rules.

Transmission of amendment to Council.

236. After an amendment is passed by the House, it shall be transmitted to the Council for its concurrence and on receipt of a message from the Council agreeing to the amendment, it shall be forwarded by the Secretary to the Minister concerned.

Amendment returned by Council.

237. If the Council disagrees with the amendment passed by the House or agrees subject to a further amendment thereof or proposes an amendment in substitution thereof, the House may either drop the amendment or agree with the Council in the proposed amendment or insist on the original amendment passed by the House. A message in either case shall be sent to the Council. In case the House agrees to the amendment as further amended by the Council, the amended amendment shall be forwarded by the Secretary to the Minister concerned.

Disagreement between Houses.

238. If the Council agrees to the original amendment passed by the House, it shall be sent by the Secretary to the Minister concerned, but if the Council disagrees or insists on an amendment to which the House has not agreed, the Houses shall be deemed to have finally disagreed, and all further proceedings thereon shall be dropped.

Regulation, rule etc. as amended to be laid on the Table.

239. If a regulation, rule, sub-rule, bye-law etc. is modified in accordance with the amendment passed by the Houses, the amended regulation, rule, sub-rule, bye-law etc. shall be laid on the Table.

[For rules relating to Committee on Subordinate Legislation, see Chapter XXVI of these rules.]

CHAPTER XXII

RESIGNATION AND VACATION OF SEATS IN THE HOUSE

Resignation of seats in House.

240. (1) A member who desires to resign his seat in the House shall intimate in writing under his hand addressed to the Speaker, his intention to resign his seat in the House in the following form and shall not give any reason for his resignation :

"To

The Speaker,

Lok Sabha,

New Delhi.

Sir,

I hereby tender my resignation of my seat in the House with effect from.....

YOURS FAITHFULLY,

Place..... Date..... Member of the House":

Provided that where any member gives any reason or introduces any extraneous matter the Speaker may, in his discretion, omit such words, phrases or matter and the same shall not be read out in the House.

(2) As soon as may be, the Speaker shall, after he has received an intimation in writing from a member under his hand resigning his seat in the House, inform the House that such and such a member has resigned his seat in the House :

Provided that when the House is not in session, the Speaker shall inform the House immediately after the House re-assembles that such and such a member has resigned his seat in the House during the inter-session period.

(3) The Secretary shall, as soon as may be, after the Speaker has received such intimation from a member resigning his seat in the House, cause the infor-

mation to be published in the Gazette and forward a copy of the notification to the Election Commission for taking steps to fill the vacancy thus caused.

Vacation of seats in House.

241. (1) The seat of a member shall be declared vacant under clause (4) of Article 101 of the Constitution on a motion by the Leader of the House or by such other member to whom he may delegate his functions in this behalf.

(2) If the motion referred to in sub-rule (1) is carried, the Secretary shall cause the information to be published in the Gazette and forward a copy of the notification to the Election Commission for taking steps to fill the vacancy thus caused.

CHAPTER XXIII

LEAVE OF ABSENCE FROM THE SITTINGS OF THE HOUSE

Application for leave of absence.

242. (1) A member desiring permission of the House to remain absent from the sittings thereof under clause (4) of Article 101 of the Constitution shall make an application in writing to the Speaker.

(2) An application under sub-rule (1) shall specify the period for which leave of absence is required, indicating also the date of commencement and of termination of such leave of absence and the grounds for it :

Provided that leave of absence applied for at any one time shall not exceed a period of sixty days.

Applications to be referred to Committee.

243. All applications under rule 242 shall stand referred to the Committee on Absence of Members from the Sittings of the House.

Decision of House communicated to member.

244. The Secretary shall, as soon as may be, after a decision has been signified by the House on the recommendations of the Committee in respect of an application for leave of absence, communicate it to the member.

Lapse of unexpired portion of leave if the member attends House earlier.

245. If a member who has been granted leave of absence under these rules attends the session of the House during the period for which the leave of absence has been granted to him, the unexpired portion of the leave from the date of his resumed attendance shall lapse.

[For rules relating to Committee on Absence of Members from the Sittings of the House, see Chapter XXVI of these rules.]

CHAPTER XXIV

COMMUNICATIONS BETWEEN THE PRESIDENT AND THE HOUSE

Communications from the President to House.

246. Communications from the President to the House shall be made to the Speaker by written message signed by the President or, if the President is absent from the place of sitting of the House, his message shall be conveyed to the Speaker through a Minister.

Communications from House to the President.

247. Communications from the House to the President shall be made—

(i) by formal address, after motion made and carried in the House ; and

(ii) through the speaker.

CHAPTER XXV

SECRET SITTING OF THE HOUSE

Secret sitting.

248. (1) On a request made by the Leader of the House, the Speaker shall fix a day or part thereof for sitting of the House in secret.

(2) When the House sits in secret no stranger shall be permitted to be present in the Chamber, Lobby or Galleries :

Provided that members of the Council may be present in their Gallery :

Provided further that persons authorised by the Speaker may be present in the Chamber, Lobby or Galleries.

Report of the proceedings.

249. The Speaker may cause a report of the proceedings of a secret sitting to be issued in such manner as he thinks fit, but no other person present shall keep a note or record of any proceedings or decisions of a secret sitting whether in part or full, or issue any report of, or purport to describe, such proceedings.

Procedure in other respects.

250. The procedure in all other respects in connection with a secret sitting shall be in accordance with such directions as the Speaker may give.

Lifting ban of secrecy.

251. (1) When it is considered that the necessity for maintaining secrecy in regard to the proceedings of a secret sitting has ceased to exist and subject to the consent of the Speaker, a motion may be moved by the Leader of the House or any member authorised by him that the proceedings in the House during a secret sitting be no longer treated as secret.

(2) On adoption by the House of the motion under sub-rule (1), the Secretary shall cause to be prepared a report of the proceedings of the secret sitting, and shall, as soon as practicable, publish it in such form and manner as the Speaker may direct.

Disclosure of proceedings or decisions.

252. Subject to the provisions of rule 251, disclosure of proceedings or decisions of a secret sitting by any person in any manner shall be treated as a gross breach of privilege of the House.

CHAPTER XXVI

PARLIAMENTARY COMMITTEES

(a) *General*

Committee to include Parliamentary Committee.

253. In this Chapter, unless the context otherwise requires, "Committee" means and includes "Parliamentary Committee" as defined in sub-rule (1) of rule 2.

Appointment of Committee.

254. (1) The members of a Committee shall be appointed or elected by the House on a motion made, or nominated by the Speaker, as the case may be.

(2) No member shall be appointed to a Committee if he is not willing to serve on it. The proposer shall ascertain whether the member whose name is proposed by him is willing to serve on the Committee.

(3) Casual vacancies in a Committee shall be filled by appointment or election by the House on a motion made, or nomination by the Speaker, as the case may be, and any member appointed, elected or nominated to fill such vacancy shall hold office for the unexpired portion of the term for which the member in whose place he is appointed, elected or nomiated would have normally held office.

Objection to membership of Committee.

255. Where an objection is taken to the inclusion of a member in a Committee on the ground that the member has a personal, pecuniary or direct interest of such an intimate character that it may prejudicially affect the consideration of any matters to be considered by the Committee, the procedure shall be as follows:

(a) The member who has taken objection shall precisely state the ground of his objection and the nature of the alleged interest, whether personal, pecuniary or direct, of the proposed member in the matters coming up before the Committee:

(b) after the objection has been stated, the Speaker shall give an opportunity to the member proposed on the Committee against whom the objection has been taken to state the position;

(c) if there is dispute on facts, the Speaker may call upon the member taking objection and the member against whose appointment on the Committee objection has been taken, to produce documentary or other evidence in support of their respective cases;

(d) after the Speaker has considered the evidence so tendered before him, he shall give his decision which shall be final;

(e) until the Speker has given his decision the member against whose appointment on the Committee objection has been taken shall continue to be a member thereof if elected or nominated and take part in discussion, but shall not be entitled to vote; and

(f) if the Speaker holds that the member against whose appointment objection has been taken has a personal, pecuniary or direct interest in the matter before the Committee, he shall cease to be a member thereof forthwith:

Provided that the proceedings of the sittings of the Committee at which such member was present shall not in any way be affected by the decision of the Speaker.

Explanation.—For purposes of this rule the interest of the member should be direct, personal or pecuniary and separately belong to the person whose inclusion in the Committee is objected to and not in common with the public in general or with any class or section thereof or on a matter of State policy.

Term of office of Committee nominated by the Speaker.

256. A Committee nominated by the Speaker shall, unless otherwise specified in the rules contained in this Chapter, hold office for the period specified by him or until a new Committee is nominated.

Resignation from Committee.

257. A member may resign his seat from a Committee by writing under his hand, addressed to the Speaker.

Chairman of Committee.

258. (1) The Chairman of a Committee shall be appointed by the Speaker from amongst the members of the Committee:

Provided that if the Deputy Speaker is a member of the Committee, he shall be appointed Chairman of the Committee.

(2) If the Chairman is for any reason unable to act, the Speaker may appoint another Chairman in his place.

(3) If the Chairman is absent from any sitting the Committee shall choose another member to act as Chairman for that sitting.

Quorum.

259. (1) The quorum to constitute a sitting of a Committee shall be, as near as may be, one-third of the total number of members of the Committee.

(2) If at any time fixed for any sitting of the Committee, or if at any time during any such sitting, there is no quorum the Chairman of the Committee shall either suspend the sittting until there is a quorum or adjourn the sitting to some future day.

(3) When the Committee has been adjourned in pursuance of sub-rule (2) on two successive dates fixed for sittings of the Committee, the Chairman shall report the fact to the House:

Provided that where the Committee has been appointed by the Speaker, the Chairman shall report the fact of such adjournment to the Speaker.

Discharge of members absent from sittings of Committee.

260. If a member is absent from two or more consecutive sittings of a Committee without the permission of the Chairman, a motion may be moved in the House for the discharge of such member from the Committee:

Provided that where the members of the Committee are nominated by the Speaker such member may be discharged by the Speaker.

Voting in Committee.

261. All questions at any sitting of a Committee shall be determined by a majority of votes of the members present and voting.

Casting vote of Chairman.

262. In the case of an equality of votes on any matter, the Chairman, or the person acting as such, shall have a second or casting vote.

Power to appoint sub-committees.

263. (1) A Committeee may appoint one or more sub-committees, each having the powers of the undivided Committee, to examine any matters that may be referred to them, and the reports of such sub-committees shall be deemed to be the reports of the whole Committee, if they are approved at a sitting of the whole Committee.

(2) The order of reference to a sub-committee shall clearly state the point or points for investigation. The report of the sub-committee shall be considered by the whole Committee.

Sittings of Committee.

264. The sittings of a Committee shall be held on such days and at such hour as the Chairman of the Committee may fix:

Provided that if the Chairman of the Committee is not readily available, the Secretary may fix the date and time of a sitting:

Provided further that in the case of Select or Joint Committee on a Bill, if the Chairman of the Committee is not readily available, the Secretary may, in consultation with the Minister concerned with the Bill, fix the date and time of a sitting.

Committee may sit whilst House is sitting.

265. A Committee may sit whilst the House is sitting provided that on a division being called in the House, the Chairman of the Committee shall suspend the proceedings in the Committee for such time as will in his opinion enable the members to vote in a division.

Sittings of Committee in private.

266. The sittings of a Committee shall be held in private.

Venue of sittings.

267. The sittings of a Committee shall be held within the precincts of the Parliament House, and if it becomes necessary to change the place of sitting outside the Parliament House, the matter shall be referred to the Speaker whose decision shall be final.

All strangers to withdraw when Committee deliberates.

268. All persons other than members of the Committee and officers of the Lok Sabha Secretariat shall withdraw whenever the Committee is deliberating.

Power to take evidence or call for documents.

269. (1) A witness may be summoned by an order signed by the Secretary and shall produce such documents as are required for the use of a Committee.

(2) It shall be in the discretion of the Committee to treat any evidence tendered before it as secret or confidential.

(3) No document submitted to the Committee shall be withdrawn or altered without the knowledge and approval of the Committee.

Power to send for persons, papers and records.

270. A Committee shall have power to send for persons, papers and records :

Provided that if any question arises whether the evidence of a person or the production of a document is relevant for the purposes of the Committee, the question shall be referred to the Speaker whose decision shall be final :

Provided further that Government may decline to produce a document on the ground that its disclosure would be prejudicial to the safety or interest of the State.

Counsel for a witness..

271. A Committee may, under the direction of the Speaker, permit a witness to be heard by a counsel appointed by him and approved by the Committee.

Evidence on oath.

272. *(1) A Committee may administer oath or affirmation to a witness examined before it.*

(2) The form of the oath or affirmation shall be as follows :

'I. A. B., do swear in the name of God / Solemnly affirm *that the evidence which I shall give in this case shall be true, that I will conceal nothing, and that no part of evidence shall be false.'*

Procedure for examining witnesses.

273. The examination of witnesses before a Committee shall be conducted as follows ;—

(i) The Committee shall, before a witness is called for examination, decide the mode of procedure and the nature of questions that may be asked of the witness.

(ii) The Chairman of the Committee may first ask the witness such question or questions as he may consider necessary with reference to subject matter under consideration or any subject connected therewith according to the mode of procedure mentioned in clause (i) of this rule.

(iii) The Chairman may call other members of the Committee one by one to ask any other questions.

(iv) A witness may be asked to place before the Committee any other relevant points that have not been covered and which a witness thinks are essential to be placed before the Committee.

(v) A verbatim record of proceedings of the Committee shall, when a witness is summoned to give evidence, be kept.

(vi) The evidence tendered before the Committee may be made available to all members of the Committee.

Record of decisions of Committee.

274. A record of the decisions of a Committee shall be maintained and circulated to members of the Committee under the direction of the Chairman.

Evidence, report and proceedings treated as confidential.

275. (1) A Committee may direct that the whole or a part of the evidence or a summary thereof may be laid on the Table.

(2) No part of the evidence, oral or written, report or proceedings of a Committee which has not been laid on the Table shall be open to inspection by any one except under the authority of the Speaker.

(3) The evidence given before a Committee shall not be published by any member of the Committee or by any other person until it has been laid on the Table :

Provided that the Speaker may, in his discretion, direct that such evidence be confidentially made available to members before it is formally laid on the Table,

Special reports.

276. A Committee may, if it thinks fit, make a special report on any matter that arises or comes to light in the course of its work which it may consider necessary to bring to the notice of the Speaker or the House, notwithstanding that such matter is not directly connected with, or does not fall within or is not incidental to, its terms of reference.

Report of Committee.

277 (1) Where the house has not fixed any time for the presentation of a report by a Committee, the report shall be presented within one month of the date on which reference to the Committee was made:

Provided that the House may at any time, on a motion being made, direct that the time for the presentation of the report by the Committee be extended to a date specified in the motion.

(2) Reports may be either preliminary or final.

(3) The report of the Committee shall be signed by the Chairman on behalf of the Committee :

Provided that in case the Chairman is absent or is not readily available the Committee shall choose another member to sign the report on behalf of the Committee.

Availablity of report to Government before presentation.

278. A Committee may, if it thinks fit, make available to Government any completed part of its report before presentation to the House. Such reports shall be treated as confidential until presented to the House.

Presentation of report.

279. (1) The report of a Committee shall be presented to the House by the Chairman or in his absence by any member of the Committee.

(2) In presenting the report the Chairman or, in his absence, the member presenting the report shall, if he makes any remarks, confine himself to a brief statement of fact, but there shall be no debate on that statement at this stage.

Printing, publication or circulation of report prior to its presentation to House.

280. The Speaker may, on a request being made to him and when the House is not in session, order the printing, publication or circulation of a report of a Committee although it has not been presented to the House. In that case the report shall be presented to the House during its next session at the first convenient opportunity.

Power to make suggestions on procedure.

281. A Committee shall have power to pass resolutions on matters of procedure relating to that Committee for the consideration of the Speaker, who may make such variations in procedure as he may consider necessary.

Power of Committee to make detailed rules.

282. A Committee may with the approval of the Speaker make detailed rules of procedure to supplement the provisions contained in the rules in this Chapter.

Power of Speaker to give directions.

283. (1) The Speaker may from time to time issue such directions to the Chairman of a Committee as he may consider necessary for regulating its procedure and the organisation of its work.

(2) If any doubt arises on any point of procedure or otherwise, the Chairman may, if the thinks fit, refer the point to the Speaker whose decision shall be final.

Business before Committee not to lapse on prorogation of House.

284. Any business pending before a Committee shall not lapse by reason only of the prorogation of the House and the Committee shall continue to function notwithstanding such prorogation.

Unfinished work of Committee.

285. A Committee which is unable to complete its work before the expiration of its term or before the dissolution of the House may report to the House that the Committee has not been able to complete its work. Any preliminary report, memorandum or note that the Committee may have prepared or any evidence that the Committeee may have taken shall be made available to the new Committee.

Applicability of general rules to Committees.

286. Except for matters for which special provision is made in the rules relating to any particular Committee, the general rules in this Chapter shall apply to all Committees ; and if and so far as any provision in the special rules relating to a Committee is inconsistent with the general rules, the former rules shall prevail.

(b) *Business Advisory Committee*

Constitution of Business Advisory Committee.

287. At the commencement of the House or from time to time, as the case may be, the Speaker may nominate a Committee called the Business Advisory Committee consisting of not more than fifteen members including the Speaker who shall be the Chairman of the Committee.

Functions of Committee.

288. (1) It shall be the function of the Committee to recommend the time that should be allocated for the discussion of the stage or stages of such Government Bills and other business as the Speaker, in consultation with the Leader of the House, may direct for being referred to the Committee.

(2) The Committee shall have the power to indicate in the proposed time-table the different hours at which the various stages of the Bill or other business shall be completed.

(3) The Committee shall have such other functions as may be assigned to it by the Speaker from time to time.

Explanation.—The expression 'other business' referred in this rule and rules 290A and 291 means business other than private members' Bills under rule 65 and private members' resolutions under rule 170.

Report of Committee.

289. *The recommendations of the Committee shall be presented to the House in the form of a report.*

Motion moved in House on report.

290. *At any time after the report has been presented to the House a motion may be moved that the House agrees or agrees with amendments or disagrees with the report:*

Provided that an amendment may be moved that the report be referred back to the Committee either without limitation or with reference to any particular matter:

Provided further that not more than half an hour shall be allotted for the discussion of the motion and no member shall speak for more than five minutes on such motion."

Notification of Allocation of Time.

290A. *The allocation of time in respect of Bills and other business as approved by the House shall take effect as if it were an order of the House and shall be notified in the Bulletin.*

Disposal of outstanding matters at the appointed hour.

291. At the appointed hour, in accordance with the Allocation of Time Order for the completion of a particular stage of a Bill, or other business, the Speaker shall forthwith put every question necessary to dispose of all the outstanding matters in connection with that stage of the Bill or other business.

Variation in the Allocation of Time Order.

292. *No variation in the Allocation of Time Order shall be made except on a motion made, with the consent of the Speaker, and accepted by the House:*

Provided that the Speaker may after taking the sense of the House, increase the time, not exceeding one hour, without any motion being moved.

(c) *Committee on Private Members' Bills and Resolutions*

Constitution of Committee on Private Members' Bills and Resolutions

293. (1) There shall be a Committee in Private Members' Bills and Resolutions consisting of not more than fifteen members.

(2) The Committee shall be nominated by the Speaker and shall hold office for a term not exceeding one year.

Functions of Committee.

294. (1) The functions of the Committee shall be—

(a) to examine every Bill seeking to amend the Constitution notice of which has been given by a private member, before a motion for leave to introduce the Bill is included in the list of business;

(b) to examine all private members, Bills after they are introduced and before they are taken up for consideration in the House and to classify them according to their nature, urgency and importance into two categories namely, category A and category B;

(c) to recommend the time that should be allocated for the discussion of the stage or stages of each private member's Bill and also to indicate in the time-table so drawn up the different hours at which the various stages of the Bill in a day shall be completed;

(d) to examine every private member's Bill which is opposed in the House on the ground that the Bill initiates legislation outside the legislative competence of the House, and the Speaker considers such objection *prima facie* tenable;

(e) to recommend time limit for the discussion of private members' resolutions and other ancillary matters.

(2) The Committee shall perform such other functions in respect of private members, Bills and resolutions as be assigned to it by the Speaker from time to time.

Motion moved in House on the report.

295. At any time after the report has been presented to the House a motion may be moved that the House agrees or agrees with amendments or disagrees with the report:

Provided that an amendment may be moved that the report be referred back to the Committee either without limitation or with reference to any particular matter:

Provided further that not more than half an hour shall be allotted for discussion of the motion and no member shall speak for more than five minutes on such motion.

Notification of classification and Allocation of Time Order.

296. *The classification of Bills and the allocation of time in respect of Bills and resolutions as approved by the House shall take effect as if it were an order of the House.*

Disposal of outstanding matters at the appointed hour.

297. At the appointed hour, in accordance with the Allocation of Time Order, the Speaker shall forthwith put every question necessary to dispose of all the outstanding matters in connection with the completion of a particular stage of the Bill or the resolution.

(d) *Select Committees on Bills*

Constitution of Select Committee.

298. The members of a Select Committee on a Bill shall be appointed by the House when a motion that the Bill be referred to a Select Committee is made.

Other members may be present at a sitting.

299. Members who are not members of the Select Committee may be present during the deliberations of the Committee but shall not address the Committee nor sit in the body of the Committee:

Provided that a Minister may with the permission of the Chairman address the Committee of which he may not be a member.

Notice of amendments and procedure generally.

300. (1) If notice of a proposed amendment has not been given before the day on which the Bill is taken up by the Select Committee, any member may object to the moving of the amendment and such objection shall prevail unless the Chairman allows the amendment to be moved.

(2) In other respects, the procedure in a Select Committee shall, as far as practicable, be the same as is followed in the House during the consideration stage of a Bill, with such adaptations, whether by way of modification or omission, as the Speaker may consider necessary or convenient.

Notice of amendments by members other than members of Committee.

301. When a Bill has been referred to a Select Committee, any notice given by a member of any amendment to a clause in the Bill shall stand referred to the Committee provided that where notice of amendment is received from a member who is not a member of the Select Committee such amendment shall not be taken up by the Committee unless moved by a member of the Committee.

Power of Committee to take evidence.

302. A Select Committee may hear expert evidence and representatives of special interests affected by the measure before them.

Report of Committee.

303. (1) As soon as may be, after a Bill has been referred to a Select Committee, the Select Committee shall meet from time to time in accordance with rule 264 to consider the Bill and shall make a report thereon within the time fixed by the House:

Provided that where the House has not fixed any time for the presentation of the report by a Select Committee, the report shall be presented before the expiry of three months from the date on which the House adopted the motion for the reference of the Bill to the Select Committee:

Provided further that the House may at any time, on a motion being made, direct that the time for the presentation of the report by the Select Committee be extended to a date specified in the motion.

(2) The Select Committee shall in their report state whether the publication of the Bill directed by these rules has taken place, and the date on which the publication has taken place.

(3) Where a Bill has been altered, the Select Committee may, if they think fit, include in their report a recommendation to the member in charge of the Bill that his next motion should be a motion for circulation, or, where the Bill has already been circulated, for re-circulation.

(4) Any member of the Select Committee may record a minute of dissent on any matter or matters connected with the Bill or dealt with in the report.

(5) A minute of dissent shall be couched in temperate and decorous language and shall not refer to any discussion in the Select Committee nor cast aspersion on the Committee.

(6) If in the opinion of the Speaker a minute of dissent contains words, phrases or expressions which are unparliamentary or otherwise inappropriate, he may order such words, phrases or expressions to be expunged from the minute of dissent.

Presentation of report.

304. The report of the Select Committee on a Bill together with the minutes of dissent, if any,shall be presented to the House by the Chairman or in his absence by any member of the Committee.

Printing and publication of reports.

305. The Secretary shall cause every report of a Select Committee to be printed, and a copy of the report shall be made available for the use of every member of the House. The report, and the Bill, as reported by the Select Committee shall be published in the Gazette.

(e) *Committee on Petitions*

Constitution of Committee on Petitions.

306. At the commencement of the House, or from time to time, as the case may be, the Speaker shall nominate a Committee on Petitions consisting of not less than fifteen members:

Provided that a Minister shall not be nominated a member of the Committee, and that if a member, after his nomination to the Committee, is appointed a Minister he shall cease to be a member of the Committee from the date of such appointment.

Functions of Committee.

307. (1) The Committee shall examine every petition referred to it, and if the petition complies with these rules, the Committee may direct that it be circulated. Where circulation of the petition has not been directed, the Speaker may at any time direct that the petition be circulated.

(2) Circulation of the petition shall be *in extenso* or in summary form as the Committee or the Speaker, as the case may be, may direct.

(3) It shall also be the duty of the Committee to report to the House on specific complaints made in the petition referred to it after taking such evidence as it deems fit and to suggest remedial measures either in a concrete form applicable to the case under review or to prevent such cases in future.

(f) *Committee on Public Accounts*

Functions of Committee on Public Accounts.

308. (1) There shall be a Committee on Public Accounts for the examination of accounts showing the appropriation of sums granted by the House for the expenditure of the Government of India, the annual finance accounts of the Government of India and such other accounts laid before the House as the Committee may think fit.

(2) In scrutinising the Appropriation Accounts of the Government of India and the report of the Comptroller and Auditor-General thereon, it shall be the duty of the Committee to satisfy itself—

(a) that the moneys shown in the accounts as having been disbursed were legally available for, and applicable to, the service or purpose to which they have been applied or charged ;

(b) that the expenditure conforms to the authority which governs it ; and

(c) that every re-appropriation has been made in accordance with the provisions made in this behalf under rules framed by competent authority.

(3) It shall also be the duty of the Committee—

(a) to examine the statement of accounts showing the income and expenditure of state corporations, trading and manufacturing schemes, concerns and projects together with the balance sheets and statements of profit and loss accounts which the President may have required to be prepared or are prepared under the provisions of the statutory rules regulating the financing of a particular corporation, trading or manufacturing scheme or concern or project and the report of the Comptroller and Auditor-General thereon ;

(b) te examine the statement of accounts showing the income and expenditure of autonomous and semi-autonomous bodies, the audit of which may be conducted by the Comptroller and Auditor-General of India either under the directions of the President or by a statute of Parliament ; and

(c) to consider the report of the Comptroller and Auditor-General in cases where the President may have required him to conduct an audit of any receipts or to examine the accounts of stores and stocks.

(4) If any money has been spent on any service during a financial year in excess of the amount granted by the House for that purpose, the Committee shall examine with reference to the facts of each case the circumstances leading to such an excess and make such recommendation as it may deem fit.

Constitution of Committee.

309. (1) The Committee shall consist of not more than fifteen members, who shall be elected by the House every year from amongst its members according to the principle of proportional representation by means of the single transferable vote :

Provided that a Minister shall not be elected a member of the Committee, and that if a member, after his election to the Committee, is appointed a Minister he shall cease to be a member of the Committee from the date of such appointment.

(2) The term of office of members of the Committee shall not exceed one year.

(g) *Committee of Estimates*

Functions of Committee on Estimates.

310. There shall be a Committee on Estimates for the exmination of such of the estimates as may seem fit to the Comnittee or are specifically referred to it by the House or the Speaker. The functions of the Committee shall be—

(a) to report what economies, improvements in organisation, efficiency or administrative reform, consistent with the policy underlying the estimates, may be effected ;

(b) to suggest alternative policies in order to bring about efficiency and economy in administration ;

(c) to examine whether the money is well laid out within the limits of the policy implied in the estimates ; and

(d) to suggest the form in which the estimates shall be presented to Parliament.

Constitution of Committee.

311. (1) The Committee shall consist of not more than thirty members who shall be elected by the House every year from amongst its members according to the principle of proportional representation by means of the single transferable vote :

Provided that a Minister shall not be elected a member of the Committee, and that if a member, after his election to the Committee, is appointed a Minister he shall cease to be a member of the Committee from the date of such appointment.

(2) The term of office of members of the Committee shall not exceed one year.

Examination of estimates by Committee.

312. The Committee may continue the examination of the estimates from time to time throughout the financial year and report to the House as its examination proceeds It shall not be incumbent on the Committee to examine the entire estimates of any one year. The demands for grants may be finally voted notwithstanding the fact that the Committee has made no report.

(h) *Committee of Privileges*

Constitution of Committee of Privileges.

313. At the commencement of the House or from time to time, as the case may be, the Speaker shall nominate a Committee of Privileges consisting of not more than fifteen members.

Examination of question by Committee.

314. (1) The Committee shall examine every question referred to it and determine with reference to the facts of each case whether a breach of privilege is involved and, if so, the nature of the breach, the circumstances leading to it and make such recommendations as it may deem fit.

(2) The report may also state the procedure to be followed by the House in giving effect to the recommendations made by the Committee.

Consideration of report.

315. (1) After the report has been presented, the Chairman or any member of the Committee or any other member may move that the report be taken into consideration, whereupon the Speaker may put the question to the House.

(2) Before putting the question to the House, the speaker may permit a debate on the motion, not exceeding half an hour in duration, and such debate shall not refer to the details of the report further than is necessary to make out a case for the consideration of the report by the House.

(3) After the motion made under sub-rule (1) is agreed to, the Chairman or any member of the Committee or any other member, as the case may be, may move that the House agrees, or disagrees or agrees with amendments, with the recommendations contained in the report.

Priority for consideration of report of Committee.

316. A motion that the report of the Committee be taken into consideration shall be accorded the priority assigned to matter of privilege under sub-rule (1) of rule 225, unless there has been undue delay in bringing it forward :

Provided that when a date has already been fixed for the consideration of the report, it shall be given priority as a matter of privilege on the day so appointed.

(i) *Committee on Subordinate Legislation*

Functions of Committee on Subordinate Legislation.

317. There shall be a Committee on Subordinate Legislation to scrutinize and report to the House whether the powers to make regulations, rules, sub-rules, bye-laws etc. conferred by the Constitution or delegated by Parliament are being properly exercised within such delegation.

Constitution of Committee.

318. (1) The Committee shall consist of not more than fifteen members who shall be nominated by the Speaker:

Provided that a Minister shall not be nominated a member of the Committee, and that if a member, after his nomination to the Committee, is appointed a Minister he shall cease to be a member of the Committee from the date of such appointment.

(2) The term of office of members of the Committee shall not exceed one year.

Numbering and publication of Orders.

319. Each regulation, rule, sub-rule, bye-law etc. framed in pursuance of the provisions of the Constitution or the legislative functions delegated by Parliament to a subordinate authority, and which is required to be laid before the House, hereinafter referred to as "Order", shall, subject to such rules as the Speaker may in consultation with the Leader of the House prescribe, be numbered centrally and published in the Gazette immediately after it is promulgated

Duties of Committee.

320. After each such Order referred to in rule 319 i, laid before the House, the Committee shall, in particulars consider—

(i) whether it is in accord with the general objects of the Constitution or the Act pursuant to which it is made;

(ii) whether it contains matter which in the opinion of the Committee should more properly be dealt with in an Act of Parliament.

(iii) whether it contains imposition of any tax;

(iv) whether it directly or indirectly bars the jurisdiction of the courts;

(v) whether it gives retrospective effect to any of the provisions in respect of which the Constitution or the Act does not expressly give any such power;

(vi) whether it involves expenditure from the Consolidated Fund of India or the public revenues;

(vii) whether it appears to make some unusual or unexpected use of the powers conferred by the Constitution or the Act pursuant to which it is made;

(viii) whether there appears to have been unjustifiable delay in its publication or in laying it before Parliament;

(ix) whether for any reason its form or purport calls for any elucidation.

Report of Committee.

321. (1) If the Committee is of opinion that any Order should be annulled wholly or in part, or should be amended in any respect, it shall report that opinion and the grounds thereof to the House.

(2) If the Committee is of opinion that any other matter relating to any Orders should be brought to the notice of the House, it may report that opinion and matter to the House.

Power of Speaker to give directions.

322. The Speaker may issue such directions as he may consider necessary for regulating the procedure in connection with all matters connected with the consideration of any question of Subordinate Legislation either in the Committee or in the House.

(j) *Committee on Government Assurances.*

Functions of Committee on Government Assurances.

323. There shall be a Committee on Government Assurances to scrutinise the assurances, promises, undertakings, etc. given by Ministers, from time to time, on the floor of the House and to report on—

(a) the extent to which such assurances, promises, undertakings, etc. have been implemented; and

(b) where implemented whether such implementation has taken place within the minimum time necessary for the purpose,

Constitution of Committee.

324. (1) The Committee shall consist of not more than fifteen members who shall be nominated by the Speaker:

Provided that a Minister shall not be nominated a member of the Committee, and that if a member, after his nomination to the Committee, is appointed a Minister he shall cease to be a member of the Committee from the date of such appointment.

(2) The term of office of members of the committee shall not exceed one year.

(k) *Committee on Absence of Members from the Sittings of the House*

Constitution of Committee on Absence of Members from the Sittings of the House.

325. The Committee on Absence of Members from the Sittings of the House shall consist of fifteen members nominated by the Speaker and shall hold office for a term not exceeding one year.

Functions of Committee.

326. (1) The functions of the Committee shall be:—

(i) to consider all applications from members for leave of absence from the sittings of the House; and

(ii) to examine every case where a member has been absent for a period of sixty days or more, without permission, from the sittings of the House and to report whether the absence should be condoned or circumstances of the case justify that the House should declare the seat of the member vacant.

(2) The Committee shall perform such other functions in respect of attendance of members in the House as may be assigned to it by the Speaker from time to time.

Pleasure of House taken where leave of absence is recommended.

327. Where the Committee recommends that leave of absence be granted to a member or the absence be condoned, as the case may be, the pleasure of the House shall be taken by the Speaker in the following terms on a day as soon as may be after the presentation of the report:—

"The Committee on Absence of Members from the Sittings of the House in its.....report has recommended that leave of absence be granted or absence be condoned (as the case may be) in respect of Shri.....,,, ...for the period indicated in the report.

The member is being informed accordingly."

Motion moved where leave of absence is not recommended.

328. Where leave of absence is not recommended by the Committee in respect of any application, a motion may be moved by any member that the House agrees or agrees with amendment or disagrees with the recommendations of the Committee in respect of that application.

(1) *Rules Committee*

Functions of Rules Committee.

329. There shall be a Committee on Rules to consider matters of procedure and conduct of business in the House and to recommend any amendments or additions to these rules that may be deemed necessary.

Constitution of Committee.

330. The Committee on Rules shall be nominated by the Speaker and shall consist of fifteen members including the Chairman of the Committee. The Speaker shall be the *ex-officio* Chairman of the Committee.

Laying of Report on the Table

331. (1) The recommendations of the Committee shall be laid on the Table and within a period of seven days, beginning with the day on which they are so laid, any member may give notice of any amendment to such recommendations.

(2) Any notice given by a member of any amendment to the recommendations of the Committee shall stand referred to the Committee who shall consider it and make such changes in their recommendations as the Committee may consider fit. The final report of the Committee after taking into consideration the amendments suggested by the members shall be laid on the Table. Thereafter, on the House agreeing to the report on a motion made by a member of the Committee, the amendments to the rules as approved by the House, shall be promulgated by the Speaker in the Bulletin.

(3) If notice of such amendment has not been given within seven days, the recommendations of the Committee shall be deemed to have been approved by the House and on the expiry of the said period the Speaker shall promulgate in the Bulletin the amendments to the rules as recommended by the Committee.

(4) The amendments to the rules shall come into force on their publication in the Bulletin unless otherwise specified.

CHAPTER XXVII

GENERAL RULES OF PROCEDURE

Notices

Notices by members.

332. (1) Every notice required by these rules shall be given in writing addressed to the Secretary, and signed by the member giving notice, and shall be left at the Parliamentary Notice Office which shall be kept open for this purpose between the hours to be notified from time to time on every day except Sunday or a public holiday.

(2) Notices left at the Parliamantary Notice Office after the hours notified under sub-rule (1) shall be treated as given on the next open day.

Contingent notice.

333. (1) A member may give notice of a motion or resolution or Bill which he may desire to be taken up on the conclusion of other business on which that motion is contingent and if such a notice is admitted by the Speaker it may be included in the list of business

under the heading: contingent notice of motion or resolution or Bill, as the case may be.

(2) A contingent notice shall be in such form as the Speaker may prescribe and shall be taken up in the House only after the business on which the notice is contingent is disposed of.

Circulation of notices and papers to members.

334. (1) The Secretary shall make every effort to circulate to each member a copy of every notice or other paper which is required by theser ules to be made available for for the use of members.

(2) A notice or other paper shall be deemed to have been made available for the use of every member if a copy thereof is deposited in such manner and in such place as the Speaker may, from time to time, direct.

Lapse of pending notices on prorogation of House.

335. On the prorogation of the House, all pending notices, other than notices of intention to move for leave to introduce a Bill, shall lapse and fresh notices shall be given for the next session:

Provided that a fresh notice shall be necessary of intention to move for leave to introduce any Bill in respect of which sanction or recommendation has been granted under the Constitution if the sanction or recommendation, as the case may be, has ceased to be operative.

Motion, resolution or amendment moved not to lapse.

336. A motion, resolution or an amendment, which has been moved and is pending in the House, shall not lapse by reason only of the prorogation of the House.

Speaker to amend notices of questions and motions etc

337. If in the opinion of the Speaker, any notice contains words, phrases or expressions which are argumentative, unparliamentary, ironical, irrelevant, verbose, or otherwise inappropriate, he may, in his discretion, amend such notice before it is circulated.

Motions

Repetition of motion.

338. A motion shall not raise a question substantially identical with one on which the House has given a decision in the same session.

Withdrawal of motion.

339. (1) A member who has made a motion may withdraw the same by leave of the House.

(2) The leave shall be signified not upon question but by the Speaker taking the pleasure of the House. The Speaker shall ask: "Is it your pleasure that the motion be withdrawn?" If on one dissents, the Speaker shall say: "The motion is by leave withdrawn." But if any dissentient voice be heard or a member rises to continue the debate, the Speaker shall forthwith put the motion:

Provided that if an amendment has been proposed to a motion, the original motion shall not be withdrawn until the amendment has been disposed of.

Adjournment of debate on motion.

340. At any time after a motion has been made, a member may move that the debate on the motion be adjourned.

Dilatory motion in abuse of the rules of House.

341. (1) If the Speaker is of opinion that a motion for the adjournment of a debate is an abuse of the rules of the House, he may either forthwith put the question thereon or decline to propose the question.

(2) If the Speaker is of opinion that a motion for re-circulation of a Bill to elicit further opinion thereon is in the nature of a dilatory motion in abuse of the rules of the House inasmuch as the original circulation was adequate or comprehensive or that no circumstance has arisen since the previous circulation to warrant the re circulation of the Bill, he may forthwith put the question thereon or decline to propose the question.

(3) If the Speaker is of opinion that a motion for re-committal of a Bill to a Select Committee of the House or a Joint Committee of the Houses or circulation or re-circulation of the Bill after the Select Committee of the House or the Joint Committee of the Houses has reported thereon, is in the nature of a dilatory motion in abuse of the rules of the House inasmuch as the Select Committee of the House or the Joint Committee of the Houses, as the case may be, has dealt with the Bill in a proper manner or that no unforeseen or new circumstance has arisen since the Bill emerged from such Committee, he may forthwith put the question thereon or decline to propose the question.

Motion that policy or situation or statement or any other matter be taken into consideration.

342. A motion that the policy or situation or statement or any other matter be taken into consideration shall not be put to the vote of the House, but the House shall proceed to discuss such matter immediately after the mover has concluded his speech and no further question shall be put at the conclusion of the debate at the appointed hour unless a member moves a substantive motion in appropriate terms to be approved by the Speaker and the vote of the House shall be taken on such motion.

Anticipating Discussion

Anticipating discussion.

343. No member shall anticipate the discussion of any subject of which notice has been given provided that in determining whether a discussion is out of order on the ground of anticipation, regard shall be had by the Speaker to the probability of the matter anticipated being brought before the House within a reasonable time.

Amendments

Scope of amendments.

344. (1) An amendment shall be relevant to, and within the scope of, the motion to which it is proposed.

(2) An amendment shall not be moved which has merely the effect of a negative vote.

(3) An amendment on a question shall not be inconsistent with a previous decision on the same question.

Notice of amendments.

345. Notice of an amendment to a motion shall be given one day before the day on which the motion is to be considered, unless the Speaker allows the amendment to be moved without such notice.

Selection of amendments.

346. The Speaker shall have power to select the amendments to be proposed in respect of any motion, and may, if he thinks fit, call upon any member who has given notice of an amendment to give such explanation of the object of the amendment as may enable him to form a judgment upon it.

Putting of amendments.

347. The Speaker may put amendments in such order as he may think fit :

Provided that the Speaker may refuse to put an amendment which in his opinion is frivolous.

Terms of the communication for conveying previous sanction or recommendation of the President

Terms of communication of sanction or recommendation.

348. Every sanction or recommendation by the President shall be communicated to the Secretary by a Minister in the following terms :—

"The President having been informed of the subject-matter of the proposed Bill, motion, demand for grant or amendment accords his previous sanction to the introduction of the Bill or the moving of the amendment or recommends the introduction of the Bill or the moving of the motion, demand for grant or amendment in the House or recommends to the House the consideration of the Bill."

It shall be printed in the proceeding of the House in such manner as the Speaker may direct.

Rules to be observed by Members

Rules to be observed by members while present in House.

349. Whilst the House is sitting, a member—

(i) shall not read any book, newspaper or letter except in connection with the business of the House ;

(ii) shall not interrupt any member while speaking by disorderly expression or noises or in any other disorderly manner ;

(iii) shall bow to the Chair while entering or leaving the House, and also when taking or leaving his seat ;

(iv) shall not pass between the Chair and any member who is speaking :

(v) shall not leave the House when the Speaker is addressing the House ;

(vi) shall always address the Chair :

(vii) shall keep to his usual seat while addressing the House ;

(viii) shall maintain silence when not speaking in the House ;

(ix) shall not obstruct proceedings, hiss or interrupt and shall avoid making running commentaries when speeches are being made in the House ;

(x) shall not applaud when a stranger enters any of the Galleries, or the Special Box ;

(xi) shall not while speaking make any reference to the strangers in any of the Galleries;

Member to speak when called by Speaker.

350. When a member rises to speak, his name shall be called by the Speaker. If more members than one rise at the same time, the member whose name is so called shall be entitled to speak.

Mode of addressing House.

351. A member desiring to make any observations on any matter before the House shall speak from his place, shall rise when he speaks and shall address the Speaker:

Provided that a member disabled by sickness or infirmity may be permitted to speak sitting.

Rules to be observed while speaking.

352. A member while speaking shall not—

(i) refer to any matter of fact on which a judicial decision is pending ;

(ii) make a personal charge against a member ;

(ii) use offensive expressions about the conduct or proceedings of Parliament or any State Legislature ;

(iv) reflect on any determination of the House except on a motion for rescinding it ;

(v) reflect upon the conduct of persons in high authority unless the discussion is based on a substantive motion drawn in proper terms ;

Explanation.—The words "persons in high authority" mean persons whose conduct can only be discussed on a substantive motion drawn in proper terms under the Constitution or such other persons whose conduct, in the opinion of the Speaker, should be discussed on a substantive motion drawn up in terms to be approved by him ;

(vi) use the President's name for the purpose of influencing the debate ;

(vii) utter treasonable, seditious or defamatory words ;

(viii) use his right of speech for the purpose of obstructing the business of the House.

Procedure regarding allegation against a person.

353. No allegation of a defamatory or incriminatory nature shall be made by a member against any person unless the member has given previous intimation to the Speaker and also to the Minister concerned so that the Minister may be able to make an investigation into the matter for the purpose of a reply :

Provided that the Speaker may at any time prohibit any member from making any such allegation if he is of opinion that such allegation is derogatory to the dignity of the House or that no public interest is served by making such allegation.

Restriction on quoting speeches made in Council.

354. No speech made in the Council shall be quoted in the House unless it is a definite statement of policy by a Minister :

Provided that the Speaker may, on a request being made to him in advance, give permission to a member to quote a speech or make reference to the proceedings in the Council, if the Speaker thinks that such a course is necessary in order to enable the member to develop a point of privilege or procedure.

Questions to be asked through the Speaker.

355. When, for the purposes of explanation during discussion or for any other sufficient reason, any member has occasion to ask a question of another member on any matter then under the consideration of the House, he shall ask the question through the Speaker.

Irrelevance or repetition.

356. The Speaker, after having called the attention of the House to the conduct of a member who persists in irrelevance or in tedious repetition either of his own arguments or of the arguments used by other members in debate, may direct him to discontinue his speech.

Personal explanation.

357. A member may, with the permisson of the Speaker, make a personal explanation although there is no question before the House, but in this case no debatable matter may be brought forward, and no debate shall arise.

Order of speeches and right of reply

Order of speeches and right of reply.

358. (1) After the member who moves a motion has spoken, other members may speak to the motion in such order as the Speaker may call upon them. If any member who is so called upon does not speak, he shall not be entitled, except with the permission of the Speaker, to speak to the motion at any later stage of the debate.

(2) Except in the exercise of a right of reply or as otherwise provided by these rules, no member shall speak more than once to any motion, except with the permission of the Speaker.

(3) A member who has moved a motion may speak again by way of reply, and if the motion is moved by a private member, the Minister concerned may, with the permission of the Speaker, speak (whether he has previously spoken in the debate or not) after the mover has replied :

Provided that nothing in this sub-rule shall be deemed to give any right of reply to the mover of an amendment to a Bill or a resolution save with the permission of the Speaker.

Mover's reply concludes debate.

359. Subject to the provisions of sub-rule (3) of rule 358, the reply of the mover of the original motion shall in all cases conclude the debate.

Address by Speaker

Address by Speaker.

360. The Speaker may himself, or on a point being raised or on a request made by a member, address the House at any time on a matter under consideration in the House with a view to aid members in their deliberations, and such expression of views shall not be taken to be in the nature of a decision.

Procedure when Speaker rises

Procedure when Speaker rises.

361. (1) Whenever the Speaker rises he shall be heard in silence and any member who is then speaking or offering to speak shall immediately sit down.

(2) No member shall leave his seat while the Speaker is addressing the House.

Closure

Closure

362. (1) At any time after a motion has been made, any member may move : "That the question be now put", and, unless it appears to the Speaker that the motion is an abuse of these rules or an infringement of the right of reasonable debate, the Speaker shall then put the motion: "That the question be now put".

(2) Where the motion: "That the question be now put" has been carried, the question or questions consequent thereon shall be put forthwith without further debate:

Provided that the Speaker may allow a member any right of reply which he may have under these rules.

Limitation of debate.

363. (1) Whenever the debate on any motion in connection with a Bill or on any other motion becomes unduly protracted, the Speaker may, after taking the sense of the House, fix a time limit for the conclusion of discussion on any stage or all stages of the Bill or the motion, as the case may be.

(2) At the appointed hour, in accordance with the time limit fixed for the completion of a particular stage of a Bill or a motion, the Speaker shall, unless the debate is sooner concluded, forthwith put every question necessary to dispose of all the outstanding matters in connection with that stage of the Bill or the motion.

Question for Decision

Procedure for obtaining decision of House.

364. A matter requiring the decision of the House shall be decided by means of a question put by the Speaker on a motion made by a member.

Proposal and putting of question.

365. When a motion has been made, the Speaker shall propose the question for consideration, and put it for the decision of the House. If a motion embodies two or more separate propositions, those propositions may be proposed by the Speaker as separate questions.

No speech after voices collected.

366. A member shall not speak on a question after the Speaker has collected the voices both of the Ayes and of the Noes on that question.

Division

Division.

367. (1) On the conclusion of a debate, the Speaker shall put the question and invite those who are in favour of the motion to say "Aye" and those against the motion to say "No".

(2) The Speaker shall then say: "I think the Ayes (or the Noes, as the case may be) have it". If the opinion of the Speaker as to the decision of a question is not challenged, he shall say twice: "The Ayes (or the Noes, as the case may be) have it" and the question before the House shall be determined accordingly.

(3) (a) If the opinion of the Speaker as to the decision of a question is challenged, he shall order that the Lobby be cleared.

(b) After the lapse of two minutes he shall put the question a second time and declare whether in his opinion the "Ayes" or the "Noes" have it.

(c) If the opinion so declared is again challenged, he shall direct that the votes be recorded either by operating the automatic vote recorder or by the members going into the Lobbies :

Provided that, if in the opinion of the Speaker, the Division is unnecessarily claimed, he may ask the members who are for 'Aye' and those for 'No' respectively to rise in their places and, on account being taken, he may declare the determination of the House. In such a case, the names of the voters shall not be recorded.

Division by automatic vote recorder.

367A. *(1) Where the Speaker directs under clause (c) of sub-rule (3) of rule 367 that the votes be recorded by operating the automatic vote recorder, it shall be put into operation and the members shall cast their votes from the seats respectively allotted to them by pressing the buttons provided for the purpose*

(2) After the result of the voting appears on the indicator board, the result of the Division shall be announced by the Speaker and it shall not be challenged.

(3) A member who is not able to cast his vote by pressing the button provided for the purposes due to any reason considered sufficient by the Speaker, may, with the permission of the Speaker, have his vote recorded verbally by stating whether he is in favour of or against the motion, before the result of the Division is announced.

(4) If a member finds that he has voted by mistake by pressing the wrong button, he may be allowed to correct his mistake, provided he brings it to the notice of the Speaker before the result of the Division is announced.

Division by going in to the Lobbies.

367B. *(1) Where the Speaker derects under clause (c) of sub-rule (3) of rule 367 that the votes shall he recorded by the members going into the Lobbies, he shall direct the 'Ayes' to go into the Right Lobby and the 'Noes' into the Left Lobby. In the*

Ayes' or 'Noes' Lobby, as the case may be, each member shall state his Division Number and the Division Clerk, while marking of his number on the Division List, shall simultaneously call out the name of the member.

(2) After voting in the Lobbies is completed, the Division Clerks shall bring the Division Lists to the Table when the votes shall be counted by the officers at the Table and the totals of 'Ayes' and 'Noes' presented to the Speaker.

(3) The result of the Division shall be announced by the Speaker and it shall not be challenged.

(4) A Member who is unable to go to the Division Lobby owing to sickness or infirmity may, with the permission of the Speaker, have his vote recorded either at his seat or in the Lobby before the result of the Division is announced.

(5) If a member finds that he has voted by mistake in the wrong Lobby, he may be allowed to correct his mistake, provided he brings it to the notice of the Speaker before the result of the Division is announced.

(6) When the Division Clerks have brought the Division Lists to the Table, a member who has not upto that time recorded his vote but who then wishes to have his vote recorded may do so with the permission of the Speaker before the result of the Division is announced.

Papers quoted to be laid on the Table

Papers quoted to be laid on the Table.

368. If a Minister quotes in the House a despatch or other State paper which has not been presented to the House, he shall lay the relevant paper on the Table:

Provided that this rule shall not apply to any documents which are stated by the Minister to be of such a nature that their production would be inconsistent with public interest :

Provided further that where a Minister gives in his own words a summary or gist of such despatch or State paper it shall not be necessary to lay the relevant papers on the Table.

Treatment of papers laid on the Table.

396. (1) A paper or document to be laid on the Table shall be duly authenticated by the member presenting it.

(2) All papers and documents laid on the Table shall be considered public.

Procedure when a Minister descloses source of advice or opinion given to him

Procedure when a Minister discloses source of advice or opinion given to him.

370. If, in answer to a question or during debate, a Minister discloses the advice or opinion given to him by any officer of the Government or by any other person or authority, he shall ordinarily lay the relevant document or parts of document containing that opinion or advice, or a summary thereof on the Table.

Objection to vote of a Member on grounds of personal, pecuniary or direct interest

Objection to vote of a member.

371. If the vote of a member in a division in the House is challenged on the ground of personal, pecuniary or direct interest in the matter to be decided, the Speaker may, if he considers necessary, call upon the member making the challenge to state precisely the grounds of his objection and the member whose vote has been challenged to state his case and shall decide whether the vote of the member should be disallowed or not and his decision shall be final;

Provided that the vote of a member or members is challenged immediately after the division is over and before the result is announced by the Speaker.

Explanation.—For the purposes of this rule the interest of the member should be direct, personal or pecuniary and separately belong to the person whose vote is questioned and not in common with the public in general or with any class or section thereof or on a matter of State policy.

Statement made by a Minister

Statement made by a Minister.

372. A statement may be made by a Minister on a matter of public importance with the consent of the Speaker but no question shall be asked at the time the statement is made.

Withdrawal and Suspension of Members

Withdrawal of member.

373. The Speaker may direct any member whose conduct is, in his opinion, grossly disorderly to withdraw immediately from the House, and any member so ordered to withdraw shall do so forthwith and shall absent himself during the remainder of the day's sitting.

Suspension of member.

374. (1) The Speaker may, if he deems it necessary, name a member who disregards the authority of the Chair or abuses the rules of the House by persistently and wilfully obstructing the business thereof.

(2) If a member is so named by the Speaker, he shall forthwith put the question that the member (naming him) be suspended from the service of the House for a period not exceeding the remainder of the session:

Provided that the House may, at any time, on a motion being made, resolve that such suspension be terminated.

(3) A member suspended under this rule shall forthwith withdraw from the precincts of the House.

Suspension of Sitting

Power of Speaker to adjourn House or suspend sitting.

375. In the case of a grave disorder arising in the House, the Speaker may, if he thinks it necessary to do so, adjourn the House or suspend any sitting for a time to be named by him.

Points of Order

Points of order and decisions thereon.

376. (1) A point of order shall relate to the interpretation or enforcement of these rules or such Articles of the Constitution as regulate the business of the House and raise a question which is within the cognizance of the Speaker.

(2) A point of order may be raised in relation to the business before the House at the moment:

Provided that the Speaker may permit a member to raise a point of order during the interval between the termination of one item of business and the commencement of another if it relates to maintenance of order in, or arrangement of business before, the House.

(3) Subject to conditions referred to in sub-rules (1) and (2), a member may formulate a point of order and the Speaker shall decide whether the point raised is a point of order and if so give his decision thereon, which shall be final.

(4) No debate shall be allowed on a point of order, but the Speaker may, if he thinks fit, hear members before giving his decision.

(5) A point of order is not a point of privilege.

(6) A member shall not raise a point of order—

(a) to ask for information; or

(b) to explain his position: or

(c) when a question on any motion is being put to the House; or

(d) which may be hypothetical; or

(e) that Division Bells did not ring or were not heard.

Raising a matter which is not a point of order.

377. A member who wishes to bring to the notice of the House any matter which is not a point of order shall give notice to the Secretary in writing stating briefly the point which he wishes to raise in the House together with reasons for wishing to raise it, and he shall be permitted to raise it only after the Speaker has given his consent and at such time and date as the Speaker may fix.

Maintenance of Order

Speaker to preserve order and enforce decisions.

378. The Speaker shall preserve order and shall have all powers necessary for the purpose of enforcing his decisions.

Report of Proceedings

Report of proceedings of House.

379. The Secretary shall cause to be prepared a full report of the proceedings of the House at each of its sittings and shall, as soon as practicable, publish it in such form and manner as the Speaker may, from time to time, direct.

Expunction of words from debates.

380. If the Speaker is of opinion that words have been used in debate which are defamatory or indecent or unparliamentary or undignified, he may, in his discretion, order that such words be expunged from the proceedings of the House.

Indication in printed debates of expunged proceedings.

381. The portion of the proceedings of the House so expunged shall be marked by asterisks and an explanatory footnote shall be inserted in the proceedings as follows :

"Expunged as ordered by the Chair."

Printing and Publication of Parliamentary Papers

Printing and publication of Parliamentary papers.

382. (1) The Speaker may authorise printing, publication, distribution or sale of any paper, document or report in connection with the business of the House or any paper, document or report laid on the Table or presented to the House or a Committee thereof.

(2) A paper, document or report printed, published, distributed or sold in pursuance of sub rule (1) shall be deemed to have been printed, published, distributed or sold under the authority of the House within the meaning of clause (2) of Article 105 of the Constitution.

(3) If a question arises whether a paper, document or report is in connection with the business of the House or not, the question shall be referred to the Speaker whose decision shall be final.

Custody of Papers

Custody of papers.

383. The Secretary shall have custody of all records, documents and papers belonging to the House or any of its Committees or Lok Sabha Secretariat and he shall not permit any such

records, documents or papers to be taken from the Parliament House without the permission of the Speaker.

Chamber of the House

Restriction on use of Chamber of House.

384. The Chamber of the House shall not be used for any purpose other than the sittings of the House.

Admission of Officers of the Council

Officers of Council entitled to admission to sitting of House.

385. Any officer of the secretarial staff of the Council shall be entitled to admission to the House during any sitting of the House.

Admission of Strangers

Admission of strangers.

386. The admission of strangers during the sittings of the House to those portions of the House which are not reserved for the exclusive use of members shall be regulated in accordance with orders made by the Speaker.

Withdrawal of strangers.

387. The Speaker may, whenever he thinks fit, order the withdrawal of strangers from any part of the House.

Removal and taking into custody of strangers.

387A. *An officer of the Secretariat authorised in this behalf by the Speaker shall remove from the precincts of the House or take into custody, any stranger whom he may see, or who may be reported to him to be, in any portion of the precincts of the House which is reserved for the exclusive use of members, and also any stranger who, having been admitted into any portion of the precincts of the House, misconducts himself or wilfully infringes the regulations made by the Speaker under rule 386 or does not withdraw when the strangers are directed to withdraw under rule 387 while the House is sitting.*

Suspension of Rules

Suspension of rules.

388. Any member may, with the consent of the Speaker, move that any rule may be suspended in its application to a paticular motion before the House and if the motion is carried the rule in question shall be suspended for the time being.

Residuary Powers

Residuary powers.

389. All matters not specifically provided for in these rules and all questions relating to the detailed working of these rules shall be regulated in such manner as the Speaker may, from time to time, direct.

FIRST SCHEDULE

Form of Petition

(*See* rule 161)

To

LOK SABHA

The humble petition of

(*Here insert name and designation or description of petitioner (s) in concise form, e.g. "A. B. and others" or "the inhabitants of....." or "the municipality of....." etc.*)

sheweth

(Here insert concise statement of case)

and accordingly your petitioner (s) pray that

(Here insert "that the Bill be or be not proceeded with" or "that special provision be made in the Bill to meet the case of your petitioner (s)" or any other appropriate prayer regarding the Bill or matter before the House or a matter of general public interest)

and your petitioner (s) as in duty bound will ever pray.

Name of petitioner	Address	Signature or thumb impression

Countersignature of member presenting.

SECOND SCHEDULE

Form of Report on Petition by the Secretary

(*See* rule 167)

Sir, under Rule.....of the Rules of Procedure and Conduct of Business in Lok Sabha, I have to report that.....petitions as per statement laid on the Table have been received relating to.....(in case of Bills) the Bill to provide for....., which was introduced in the House on the .....19 , by Shri .....

STATEMENT

Petitions relating to.....(in case of Bills) the Bill to provide for..... .....which was introduced in the House on the.....19 .

Number of Signatories	District or town	State

THIRD SCHEDULE

(*See* rules 229 and 230)

Form of communication regarding arrest, detention, conviction or release, as the case may be, of a member

Place.....

Date.....

To

The Speaker,
Lok Sabha.
New Delhi.

DEAR MR. SPEAKER,

A

I have the honour to inform you that I have found it my duty, in the exercise of my powers under Section.....of the.....(Act), to direct that Shri..... ....., Member of the Lok Sabha, be $\frac{\text{arrested}}{\text{detained}}$ for..... (reasons for the arrest or detention, as the case may be).

Shri....., M P., was accordingly $\frac{\text{arrested}}{\text{taken into custody}}$ at..... (time) on .....(date) and is at present lodged in the.....Jail,..... .....(place).

B

I have the honour to inform you that Shri....., Member of the Lok Sabha, was tried at the.....Court before me on a charge (or charges) of.....(reasons, for the conviction).

On.....(date) after a trial lasting for.....days, I found him guilty of..... and sentenced him to imprisonment for.....(period).

(His application for leave to appeal to*.....is pending consideration).

*Name of the court.

C

I have the honour to inform you that Shri....., Member of the Lok Sabha, who was convicted on.....(date) and imprisoned for.....(period) for.....(reasons for conviction) was released on bail pending appeal (or released on the sentence being set aside on appeal, as the case may be) on the.....(date).

Yours faithfully,

(Judge, Magistrate or executive authority).

RULES OF PROCEDURE AND CONDUCT OF BUSINESS IN THE COUNCIL OF STATES

CHAPTER I

SHORT TITLE AND DEFINITIONS

Short title.

1. (1) These rules may be called "The Rules of Procedure and Conduct of Business in the Council of States".

(2) These rules shall come into force on such date[1] as the Chairman may appoint.

Definitions.

2. In these rules the context otherwise requires,—

"Bulletin" means the Bulletin of the Council of States (Rajya Sabha) containing (a) a brief record of the proceedings of the Council at each of its sittings ; (b) information on any matter relating to or connected with the business of the Council or other matter which in the opinion of the Chairman may be included therein ; and (c) information regarding Committees of the Council or Joint Committees of the two Houses ;[1]

"Chairman" or "Chairman of the Council" means the Chairman of the Council of States ;

"The Constitution" means the Constitution of India ;

"Council" means the Council of States ;

"Finance Minister" includes any Minister ;

"Gazette" means the Gazette of India ;

"House" means the House of the People ;

"Houses" means the Council of States and the House of the People ;

"Lobby" means the covered corridor immediately adjoining the Chamber and coterminus with it ;

"Member" means a member of the Council of States ;

"Member in charge of the Bill" means in the case of a Government Bill any Minister and in any other case the member who has introduced the Bill ;

"Minister" means a member of the Council of Ministers, a Minister of State, a Deputy Minister, or a Parliamentary Secretary ;

"Precincts of the Council" means and includes the Chamber, the lobbies, the galleries and such other places as the Chairman may from time to time specify ;

"Private Member" means a member other than a Minister ;

"Secretary" means the Secretary to the Council and includes any person for the time being performing the duties of the Secretary.

"Table" means the Table of the Council of States.

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1. These Rules came into force on the 1st July, 1964, *vide* Rajya Sabha Secretariat Notification No. RS. 18/1/68-L (2), dated the 1st July, 1964, *Gazette of India, Extraordinary*, Part I, Sec. 1, p. 1208

Words and expressions used in the Constitution and also in these rules shall, unless the context otherwise requires, have the meanings assigned to them in the Constitution.

CHAPEER II

SUMMONS TO MEMBERS, SEATING, OATH OR AFFIRMATION AND ROLL OF MEMBERS

Summons to Members.

3. (1) The Secretary shall issue a summons to each Member specifying the date and place for a session of the Council.

(2) When a session is called at short notice or emergently, an announcement of the date and plaee of the session may be made in the press and members informed by telegram or otherwise.

Seating of Members.

4. The members shall sit in such order as the Chairman may determine.

Oath or affirmation.

5. A member who has not already made and subscribed an oath or affirmation in pursuance of article 99 of the Constitution may do so at the commencement of a sitting or the Council, or at such other time of the sitting as the Chairman may direct.

Roll of Members.

6. There shall be a Roll of Members of the Council which shall be signed by every member taking his seat in the presence of the Secretary.

CHAPTER III

ELECTION OF DEPUTY CHAIRMAN AND PANEL OF VICE-CHAIRMEN

Election of Deputy Chairman by the Council.

7. (1) The election of a Deputy Chairman shall be held on such date as the Chairman may fix and the Secretary shall send to every member notice of this date.

(2) At any time before noon on the day preceding the date so fixed, any member give notice in writing addressed to the Secretary of a motion that another member be chosen as the Deputy Chairman of the Council, and the notice shall be seconded by a third member and shall be accompanied by a statement by the member whose name is proposed in the notice that he is willing to serve as Deputy Chairman if elected :

Provided that a member shall not [1]* * * * * propose or second more than one motion.

(3) A member in whose name a motion stands in the list of business may, when called, move the motion or withdraw the motion, in which case he shall confine himself to a mere statement to that effect.

(4) The motions which have been moved and duly seconded shall be put one by one in the order in which they have been moved and decided if necessary by division. If any motion is carried, the person presiding shall, without putting later motions, declare that the member proposed in the motion which has been carried, has been chosen as the Deputy Chairman of the Council.

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1. The words "propose his won name, or second a motion proposing his own name, or" were omitted by Council of States Notification No. CS/ 52-L, date the 12th September 1952, *vide Gazette of India*, 1952, Part 1—See. I, P, 486,

Panel of Vice-Chairmen.

8. (1) At the commencement of the Council or from time to time as the case may be, the Chairman shall nominate from amongst the members of the Council a panel of not more than four Vice-Chairmen, any one of whom may preside over the Council in the absence of the Chairman and the Deputy Chairman when so requested by the Chairman or in his absence, by the Deputy Chairman.

(2) A Vice-Chairman nominated under sub-rule (1) shall hold office until a new panel of Vice- Chairmen is nominated.

Powers of the Deputy Chairman or other Member presiding over the sitting of the Council.

9. The Deputy Chairman or other member competent to preside over a sitting of the Council under the Constitution or these Rules shall when so presiding have the same power as the Chairman when presiding over the Council and all references to the Chairman in these Rules shall in these circumstances be deemed to be references to any such person so presiding.

CHAPTER IV

SITTINGS OF THE COUNCIL

When is sitting of the Council duly constituted.

10. A sitting of the Council *is duly constituted* when it is presided over by the Chairman or other member competent to preside over a sitting of the Council under the Constitution or these Rules.

Commencement of sitting.

11. Sittings of the Council shall commence at such hour as the Chairman may direct.

Sitting of the Council.

12. The Council shall sit on such days as the Chairman, having regard to the state of business of the Council, may from time to time direct.

Conclusion of sitting.

13. Sittings of the Council shall conclude at such hour as the Chairman may direct.

CHAPTER V

PRESIDENT'S ADDRESS AND MESSAGES TO THE COUNCIL

Allotment of time for discussion of President's Special Address.

14. The Chairman, in consultation with the Leader of the Council, shall allot time for the discussion of the matters referred to in the President's Address to the Houses under Article 87 (1) of the Constitution.

Scope of discussion.

15. On such day or days or part of any day, the Council shall be at liberty to discuss the matters referred to in such Address on a motion of thanks moved by a member and *seconded* by another member.

Amendments.

16. Amendments may be moved to such motion of thanks in such form as may be considered appropriate by the Chairman.

Other business that may be taken up.

17. (1) Notwithstanding that a day has been allotted for discussion on the President's Address,—

(a) a motion or motions for leave to introduce a Bill or Bills may be made and a Bill or Bills may be introduced on such day, and

(b) other business of a formal character may be transacted on such day before the Council commences or continues the discussion on the Address.

(2) The discussion on the Address may be postponed in favour of a Government Bill or other Government business on a motion being made that the discussion on the Address be adjourned to a subsequent day to be appointed by the Chairman. The Chairman shall forthwith put the question, no amendment or debate being allowed.

Government's right of reply.

18. The Prime Minister or any other Minister, whether he has previously taken part in the discussion or not, shall on behalf of the Government have a general right of explaining the position of the Government at the end of the discussion and the Chairman may enquire how much time will be required for the speech so that he may fix the hour by which the discussion shall conclude.

Time limit for speeches.

19. The Chairman may, if he thinks fit, prescribe, after taking the sense of the Council, a time limit for speeches.

President's Address under Article 86 (1) of the Constitution.

20. The Chairman, in consultation with the Leader of the Council, may allot time for the discussion of the matters referred to in the President's Address under clause (1) of Article 86 of the Constitution.

Messages by President.

21. Where a message from the President for the Council under clause (2) of Article 86 of the Constitution is received by the Chairman, he shall read the message to the Council and give necessary directions in regard to the procedure that shall be followed for the consideration of matters referred to in the message. In giving these directions, the Chairman shall have the power to suspend or vary the rules to such extent as it may be necessary to do so.

Prorogation of the Council.

22. When the President prorogues the Council or Houses, he may address the Council or Houses as the case may be

CHAPTER VI

ARRANGEMENT OF BUSINESS

Arrangement of Government business.

23. On days allotted for the transaction of Government business that business shall have precedence and the Secretary shall arrange that business in such order as the Chairman after consultation with the Council may determine:

Provided that such order of business shall not be varied on the day that business is set down for disposal unless the Chairman is satisfied that there is sufficient ground for such variation.

Allotment of time for Private Members' business.

24. Unless the Chairman otherwise directs every Friday shall be allotted for the transaction of private members business:

Provided that the Chairman may allot different Fridays for the disposal of different classes of such business and on Fridays so allotted for any particular class of business, business of that class shall have precedence;

Provided further that the Chairman may, in consultation with the Leader of the Council, allot any day other than a Friday for the transaction of private members business.

Precedence of Private Members' Bills.

25. (1) The relative precedence of notices of Bills given by private members shall be determined by ballot, to be held in accordance with the orders made by the Chairman, on such day, not being less than fifteen days before the day with reference to which the ballot is held, as the Chairman may direct.

(2) The relative precedence of private members' Bills on a day allotted for the disposal of such Bills shall be in the following order, namely:—

(a) Bills in respect of which the motion is that leave be granted to introduce the Bill;

(b) Bills returned by the president with a message under article 111 of the Constitution;

(c) Bills which have been passed by the Council and returned by the House with amendments;

(d) Bills which have been passed by the House and transmitted to the Council;

(e) Bills in respect of which a motion has been carried that the Bill be taken into consideration;

(f) Bills in respect of which the Report of a Joint or Select Committee has been presented;

(g) Bills which have been circulated for the purpose of eliciting opinion thereon;

(h) Bills introduced and in respect of which no further motion has been made or carried;

(i) Other Bills.

(3) The relative precdence of Bills falling under the same clause of sub-rule (2) shall be determined by ballot to be held at such time and in such manner as the Chairman direct :

Provided that Bills falling under clause (h) of sub-rule (2) shall be arranged in groups in the order of their dates of introduction and relative precedence within each group shall be determined by ballot.

(4) The Chairman may by special order to be announced in the Council make such variations in the relative precedence of Bills set out in sub-rule (2) as he may consider necessary or convenient.

Precedence of Private Members' Resolutions.

26. The relative precedence of notices of resolutions given by private members shall be determined by ballot, to be held in accordance with the orders made by the Chairman, on such day, not being less than fifteen days before the day with reference to which the ballot is held as the Chairman may direct.

Business outstanding at the end of day.

27. Private members' business set down for the day allotted for that class of business and not disposed of on that day shall not be set down for any subsequent day, unless it has gained priority at the ballot held with reference to that day:

Provided that notwithstanding anything contained in rules 25 and 26 any such business which is under discussion at the end of that day shall be set down for the next day allotted to business of that class, and shall have precedence over all other business set down for that day.

Resumption of adjourned debate on Private Member's Bill or Resolution.

28. (1) When on a motion being carried the debate on a private member's Bill or resolution is adjourned to the next day allotted for private members' business in the same or next session it will not be set down for further discussion unless it has gained priority at the ballot.

(2) When the debate on a private member's Bill or resolution is adjourned *sine die*, the member-in-charge of the Bill or the mover of the resolution, as the case may be, may, if he wishes to proceed with such Bill or resolution on a subsequent day allotted for private members' business, give notice for resumption of the adjourned debate and on receipt of such notice the relative precedence of such Bill or resolution shall be determined by ballot.

List of Business.

29. (1) A list of business for the day shall be prepared by the Secretary, and a copy thereof shall be made available for the use of every member.

(2) Save as otherwise provided in these rules, no business not included in the list of business for the day shall be transacted at any meeting without the leave of the Chairman.

(3) Save as otherwise provided by these rules, no business requiring notice shall be set down for a day earlier than the day after that on which the period of the notice necessary for that class of business expires.

(4) Unless the Chairman otherwise directs, not more than five resolutions (in addition to any resolution which is outstanding under the proviso to rule 27) shall be set down in the list of business for any day allotted for the disposal of private members' resolutions.

Business Advisory Committee

Constitution of the Business Advisory Committee.

30. (1) The Chairman may, from time to time, nominate a Committee called the Business Advisory Committee consisting of not more than ten members including the Chairman of the Council who shall be the Chairman of the Committee.

(2) The Committee nominated under sub-rule (1) shall hold office until a new Committee is nominated.

(3) If the Chairman of the Council for any reason is unable to preside over any meeting of the Committee, he shall nominate a Chairman for that meeting.

Filling of casual vacancies.

31. Casual vacancies in the Committee shall be filled by the Chairman of the Council and any person nominated to fill such a vacancy shall hold office for the period for which the person in whose place he is nominated would under the provisions of rule 28A have held office.

Quorum.

32. The quorum of the Committee shall be five.

Functions of the Committee.

33. (1) It shall be the function of the Committee to recommend the time that should be allocated for the discussion of the stage of such Government Bills and other business as the Chairman of the Council in consultation with the Leader of the Council may direct for being referred to the Committee.

(2) The Committee shall have the power to indicate in the proposed time-table the different hours at which the various stages of the Bill shall be completed.

(3) The Committee shall have such other functions as may be assigned to it by the Chairman of the Council from time to time.

Presentation and circulation of the report of the Committee.

34. The time-table in regard to the Bill or group of Bills as settled by the Committee shall be reported by the Chairman of the Council to the Council and notified in the Council of States Bulletin.

Allocation of Time Order.

35. As soon as may be after the report has been made to the Council, a motion may be moved by a member of the Committee designated by the Chairman of the Council "that this Council agrees with the allocation of time proposed by the Committee in regard to such and such Bill or Bills, or other business, as the case may be", and if such a motion is accepted by the Council, it shall take effect as if it were an Order of the Council:

Provided that an amendment may be moved that the report be referred back to the Committee either without limitation or with reference to any particular matter:

Provided further that not more than half-an-hour shall be allotted for the discussion of the motion and no member shall speak for more than five minutes on such a motion.

Disposal of outstanding matters at the appointed hour.

36. At the appointed hour in accordance with the Allocation of Time Order, for the completion of a particular stage of a Bill or other business, the Chairman of the Council shall forthwith put every question necessary to dispose of all the outstanding matters in connection with that stage of the Bill or other business.

Variation in the Allocation of Time Order.

37. No variation in the Allocation of Time Order shall be made except on the request of the Leader of the Council who shall notify orally to the Council that there was general agreement for such variation, which shall be enforced by the Chairman of the Council after taking the sense of the Council.

CHAPTER VII

QUESTIONS

Time for questions.

38 Unless the Chairman otherwise directs, the first hour of every sitting shall be available for the asking and answering of questions:

Notice of questions.

39. Unless the Chairman otherwise directs, not less than ten clear days' notice of a question shall be given.

Form of notice of question.

40. Notice of a question shall be given in writing to the Secretary and shall specify—

(a) the official designation of the Minister to whom it is addressed; and

(b) the date on which the question is proposed to be placed on the list of questions for answer.

Notice of admission of questions to Ministers.

41. Unless the Chairman otherwise directs, no question shall be placed on the list of questions for answer until five days have expired from the time when notice of such question has been given by the Secretary to the Minister to whom it is addressed.

Questions for oral answers to be distinguished by asterisks.

42. A member who desires an oral answer to his question shall distinguish it by an asterisk and if he does not distinguish it by an asterisk the question shall be printed in the list of questions for written answer.

Member entitled to oral answers to three questions on a day.

43. (1) Not more than three questions distinguished by asterisks by the same member shall be placed on the list of questions for oral answer on any one day. Questions in excess of three shall be placed in the list of questions for written answers.

(2) The order in which questions for oral answer are to be placed shall be indicated by the member giving notice and, if no such order is indicated, the questions shall be placed in the list of questions for oral answer in the order in which notices are received in point of time.

Allotment of days for oral answers to questions.

44. The time available for answering questions shall be allotted on different days in rotation for the answering of questions relating to such Ministry or Ministries as the Chairman may, from time to time, provided, and on each such day, unless the Chairman with the consent of the Minister concerned otherwise directs, only questions relating to the Ministry or Ministries for which time on that day has been allotted shall be placed on the list of questions for oral answer.

Written answers to questions not replied orally.

45. If any question placed on the list of questions for oral answer on any day is not called for answer within the time available for answering questions on that day, the Minister to whom the question is addressed shall forthwith lay upon the Table of the Council a written reply to the question, and no oral reply shall be required to such question and no supplementary questions shall be asked in respect thereof.

Questions to Private Members.

46. A question may be addressed by a member to a private member provided the subject matter of the question relates to some Bill, resolution or other matter connected with the business of the Council for which that member is responsible and the procedure in regard to such questions shall, as far as may be, be the same as that followed in the case of questions addressed to a Minister with such variations as the Chairman may consider necessary or convenient.

Conditions of admissibility of questions.

47. (1) Subject to the provisions of sub-rule (2) of this rule, a question may be asked for the purpose of obtaining information on a matter of public importance within the special cognizance of the Minister to whom it is addressed.

(2) The right to ask a question is governed by the following conditions :—

(i) It shall be clearly and precisely expressed ;

(ii) It shall not bring in any name or statement not strictly necessary to make the question intelligible ;

(iii) if it contains a statement the member shall make himself responsible for the accuracy of the statement ;

(iv) it shall not contain arguments, inferences, ironical expressions, imputations, epithets or defamatory statements ;

(v) it shall not ask for an expression of opinion or the solution of an abstract legal question or of a hypothetical proposition ;

(vi) it shall not ask as to the character or conduct of any person except in his official or public capacity ;

(vii) it shall not ordinary exceed 150 words ;

(viii) it shall not relate to a matter which is not primarily the concern of the Government of India ;

(ix) it shall not ask for information on matters which are under the consideration of a Parliamentary Committee ;

(x) it shall not ask about proceedings in a commitee which have not been placed before the Council by a report from the committee ;

(xi) it shall not reflect on the character or conduct of any person whose conduct can only be challenged on a substantive motion ;

(xii) it shall not make or imply a charge of a personal character ;

(xiii) it shall not raise questions of policy too large to be dealt within the limits of an answer to a question ;

(xiv) it shall not repeat in substance questions already answered or to which an answer has been refused ;

(xv) it shall not ask for information on trivial matters ;

(xvi) it shall not ordinarily seek information on matters of past history ;

(xvii) it shall not require information set forth in accessible documents or in ordinary works of reference ;

(xviii) it shall not raise matters under the control of bodies or persons not primarily responsible to the Government of India ;

(xix) it shall not ask for information on a matter which is under adjudication by a Court of Law having jurisdiction in any part of India;

(xx) it shall not relate to a matter with which a Minister is not officially connected;

(xxi) it shall not refer discourteously to a friendly foreign country; and

(xxii) it shall not seek information about matters which are in their nature secret.

Questions on matters of correspondence between the Government of India and the Government of a State.

48. In matters which are or have been the subject of correspondence between the Government of India and the Government of a State, no question shall be asked except as to matters of fact, and the answer shall be confined to a statement of fact.

Chairman to decide admissibility of questions.

49. (1) The Chairman shall decide whether a question or a part thereof is or is not admissible under these rules and may disallow any question or a part thereof when in his opinion it is an abuse of the right of questioning or calculated to obstruct or prejudicially affect the procedure of the Council or is in contravention of these rules.

(2) Subject to the provisions of rule 44, the Chairman may direct that a question be placed on the list of questions for answer on a date later than that specified by a member in his notice, if he is of the opinion that a longer period is necessary to decide whether the question is or is not admissible.]

Chairman to decide if a question is to be treated as starred or unstarred.

50. If in the opinion of the Chairman any question put down for oral answer is of such a nature that a written reply would be more appropriate, the Chairman may direct that such question be placed in the list of questions for written answer:

Provided that the Chairman may, if he thinks fit, call upon the member who has given notice of a question for oral answer to state in brief his reasons for desiring an oral answer and, after considering the same, may direct that the question be included in the list of questions for written answer.

List of questions.

51. Questions, which have not been disallowed, shall be entered in the list of questions for the day for oral or written answer, as the case may be, in accordance with the orders of the Chairman.

Order in which questions shall be called.

52. Questions for oral answers shall be called, if the time made available for questions permits, in the order in which they stand in the list before any other business is entered upon at the meeting:

Provided that a question not reached for oral answer may be answered after the end of the Question Hour with the permission of the Chairman if the Minister represents to the Chairman that the question is one of special public interest to which he desires to give a reply.

Withdrawal or postponement of questions.

53. A member may, by notice given at any time before the meeting for which his question has been placed on the list, withdraw his question, or postpone it to a later day to be specified in the notice, and on such later day the question shall, subject to the provisions of rule 44, be placed on the list after all questions which have not been so postponed:

Provided that a postponed question shall not be placed on the list until two clear days have expired from the time when the notice of postponement has been received by the Secretary.

Mode of asking questions.

54. (1) When the time for asking questions arrives, the Chairman shall call successively each member in whose name a question appears in the list of questions.

(2) The member so called shall rise in his place and unless he states that it is not his intention to ask the question standing in his name, he shall ask the question by reference to its number in the list of questions.

(3) If on a question being called it is not put or the member in whose name it stands is absent, the Chairman, at the request of any member, may direct that the answer to it be given.

Questions of absent members.

55. When all the questions for which an oral answer is desired have been called, the Chairman may, if time permits, call again any question which has not been asked by reason of the absence of the member in whose name it stands, and may also permit a member to ask a question standing in the name of another member, if so authorised by him.

Supplementary questions.

56. (1) No discussion shall be permitted during the time for questions under rule 38 in respect of any question or of any answer given to a question.

(2) Any member when called by the Chairman may put a supplementary question for the purpose of further elucidating any matter of fact regarding which an answer has been given:

Provided that the Chairman shall disallow any supplementary question, if, in his opinion, it infringes the rules regarding questions.

Answers not to refer to proceedings in House.

57. An answer to a question in the Council shall not refer to the answer to a question or proceedings in the House during a current session.

Short notice questions.

58. (1) A question relating to a matter of public importance may be asked with shorter notice than ten clear days and if the Chairman is of opinion that the question is of an urgent character he may direct that an enquiry may be made from the Minister concerned if he is in a position to reply and, if so, on what date

(2) If the Minister concerned is in a position to reply, such question shall be answered on a day to be indicated by him and at the time to be detrmined by the Chairman.

(3) If the Minister is not in a position to answer the question at short notice and the Chairman is of opinion that the question is of sufficient public importance to be orally answered in the Council, he may direct that the question be placed as the first question on the list of questions for the day on which it would be due for answer under rule 39 :

Provided that not more than one such question shall be accorded first priority on the list of questions for any one day.

(4) Where a member desires an oral answer to a question at short notice, he shall briefly state the reasons for asking the question with short notice. Where no reasons have been assigned in the notice of the question, the question shall be returned to the member.

(5) The member who has given notice of the question shall be in his seat to read the question when called by the Chairman and the Minister conerned shall give a reply immediately.

(6) In other respects, the procedure for short notice questions shall be the same as for ordinary questions for oral answer, with such modifications as the Chairman may consider necessary or convenient.

No publicity of answers to questions in advance.

59. Answers to questions which Ministers propose to give in the Council shall not be released for publication until the answers have actually been given on the floor of the Council or laid on the Table.

CHAPTER VIII

HALF-AN-HOUR DISCUSSION

Discussion on a matter of public importance arising out of answers to questions.

60A. (1) The Chairman shall allot half-an-hour from 5 P.M. to 5-30 P.M. on two days in a week, namely, Wednesday and Friday for raising discussion on a matter of sufficient public importance which has been the subject of a question in the Council, irrespective of the fact whether the question was answered orally or the answer was laid on the Table of the Council:

Provided that if the other business set down for the day is concluded before 5 P.M. the period of half-an-hour shall commence from the time such other business is concluded:

Provided further that the Chairman may vary the time of commencement of such discussion if such a course is, in his opinion, necessary or convenient.

(2) A member wishing to raise a matter shall give notice in writing to the Secretary three days in advance of the day on which the matter is desired to be raised, and shall shortly specify the point or points that he wishes to raise:

Provided that the notice shall be accompanied by an explanatory note stating the reasons for raising discussion on the matter in question:

Provided further that the notice shall be supported by the signature of at least two other members:

Provided further that the Chairman may with the consent of the Minister concerned waive the requirement concerning the period of notice.

(3) The Chairman shall decide whether the matter is of sufficient public importance to be put down for discussion.

(4) If more than two notices have been received and admitted by the Chairman, the Secretary shall hold a ballot with a view to drawing two notices and the notices shall be put down in the order in which they were received in point of time:

Provided that if any matter put down for discussion on a particular day is not disposed of on that day it shall not be set down for any further day, unless the member so desires, in which case it shall be included in the ballot for the next available day.

(5) There shall be no formal motion before the Council nor voting. The member who has given notice may make a short statement and the Minister concerned shall reply shortly. Any member who has previously intimated to the Chairman may be permitted to put a question for the purpose of further elucidating any matter of fact:

Provided that if the member who has given notice is absent, any member who has supported the notice may, with the permission of the Chairman, initiate the discussion.

CHAPTER IX

LEGISLATION

I. BILLS ORIGINATING IN THE COUNCIL

(a) *Introduction and publication of Bills*

Publication before introduction.

61. The Chairman on a request being made to him may order the publication of any Bill (together with the Statement of Objects and Reasons the memorandum regarding delegation of legislative power and the financial memorandum accompanying it) in the Gazette, although no motion has been made for leave to introduce the Bill. In that case it shall not be necessary to move for leave to introduce the Bill, and, if the Bill is afterwards introduced, it shall not be necessary to publish it again.

Notice of motion for leave to introduce Private Members' Bills.

62. (1) Any member, other than a Minister, desiring to move for leave to introduce a Bill, shall give notice of his intention, and shall, together with the notice, submit a copy of the Bill and an explanatory Statement of Objects and Reasons which shall not contain argument:

Provided that the Chairman may, if he thinks fit, revise the Statement of Objects and Reasons.

(2) If the Bill is a Bill which under the Constitution cannot be introduced without the previous sanction or recommendation of the President, the member shall annex to the notice such sanction or recommendation, conveyed through a Minister and the notice shall not be valid until this requirement is complied with.

(3) The period of notice of a motion for leave to introduce a Bill under this rule shall be one month unless the Chairman allows the motion to be made at shorter notice.

Communication of sanction or recommendation of President in respect of Bills.

63. The orders of the President granting or withholding the sanction or recommendation to the introduction or consideration of a Bill shall be communicated to the Secretary by the Minister concerned in writing.

Financial Memorandum to Bills and Money clauses in Bills.

64. (1) A Bill involving expenditure shall be accompanied by a financial memorandum which shall invite particular attention to the clauses involving expenditure and shall also give an estimate of the recurring and non-recurring expenditure involved in case the Bill is passed into law.

(2) Clauses or provisions in Bills involving expenditure from public funds shall be printed in thick type or in italics :

Provided that where a clause in a Bill involving expenditure is not printed in

thick type or italics, the Chairman may permit the member in charge of the Bill to bring to the notice of the Council such clauses.

Explanatory Memorandum to Bills delegating legislative power.

65. A Bill involving proposals for the delegation of legislative power shall be accompanied by a memorandum explaining such proposals and drawing attention to their scope and stating also whether they are of normal or exceptional character.

Statement in connection with ordinances.

66. (1) Whenever a Bill seeking to replace an Ordinance with or without modification is introduced in introduced in the Council, there shall be placed before the Council along with the Bill a statement explaining the circumstances which had necessitated legislation by Ordinance.

(2) Whenever an Ordinance, which embodies wholly or partly or with modification the provisions of a Bill pending before the Council is promulgated, a statement explaining the csrcumstances which had necessitated legislation by Ordinance shall be laid on Table at the commencement of the session following the promulgation of the Ordinance.

Motion for leave to introduce Bill.

67. If a motion for leave to introduce a Bill is opposed, the Chairman, after permitting, if he thinks fit, a brief explanatory statment from the member who moves and from the member who opposes the motion, may, without further debate, put the question :

Provided that where a motion is opposed on the ground that the Bill initiates legislation outside the legislative competence of the Council, the Chairman may permit a full discussion thereon.

Publication after introduction.

68. As soon as may be after a Bill has been introduced, the Bill, unless it has already been published, shall be published in the Gazette,

(b) *Motions after Introduction of Bills*

Motion after introduction of Bills.

69. When a Bill is introduced, or on some subsequent occasion, the member in charge may make one of the following motions in regard to his Bill, namely :—

(i) that it be taken into consideration ; or

(ii) that it be referred to a Select Committee of the Council ; or

(iii) that it be referred to a Joint Committee of the House with the concurrence of the House ; or

(iv) that it be circulated for the purpose of eliciting opinion thereon :

Provided that no such motion shall be made until after copies of the Bill have been made available for the use of members, and that any member may object to any such motion being made unless copies of the Bill have been so made available for two days before the day on which the motion is made and such objection shall prevail, unless the Chairman allows the motion to be made.

Discussion of principles of Bill.

70. (1) On the day on which any motion referred to in rule 69 is made, or on any subsequent day to which the discussion thereof is postponed, the principles of the Bill and its provisions may be discussed generally, but the details of the Bill shall not be discussed further than is necessary to explain its principles.

(2) At this stage no amendments to the Bill may be moved, but—

(a) If the member in charge moves that the Bill be taken into consideration, any member may move as an amendment that the Bill be referred to a Select Committee of the Council or a Joint Committee of the

Houses with the concurrence of the House, or be circulated for the purpose of eliciting opinion thereon by a date to be specified in the motion, or

(b) if the member in charge moves that the Bill be referred to a Select Committee of the Council or a Joint Committee of the Houses with the concurrence of the House, any member may move as an amendment that the Bill be referred to a Joint Committee of the Houses with the concurrence of the House or a Select Committee of the Council, as the case may be, or that the Bill be circulated for the purpose of eliciting opinion thereon by a date to be specified in the motion.

(3) Where a motion that a Bill be circulated for the puroose of eliciting opinion thereon is carried, and the Bill is circulated in accordance with that direction and opinions are received thereon, the member in charge, if he wishes to proceed with the Bill thereafter, shall move that the Bill be referred to a Select Committee of the Council or a Joint Committee of the Houses unless the Chairman allows a motion to be made that the Bill be taken into consideration.

Persons by whom motions in respect of Bills may be made.

71. No motion that a Bill be taken into consideration or be passed shall be made by any member other than the member in charge of the Bill and no motion that a Bill be referred to a Select Committee of the Council or a Joint Committee of the Houses or be circulated for the purpose of eliciting opinion thereon shall be made by any member other than the member in charge except by way of amendment to a motion made by the member in charge.

(c) *Select Committees on Bills*

Composition of Select Committee.

72. (1) The members of a Select Committee on a Bill shall be appointed by the Council when a motion that the Bill be referred to a Select Committee is made.

(2) No member shall be appointed to a Select Committee if he is not willing to serve on the Committee. The mover shall ascertain whether a member proposed to be named by him is willing to serve on the Committee.

(3) Casual vacancies in a Select Committee shall be filled by appointment on a motion made in the Council.

Chairman of Select Committee.

73. (1) The Chairman of the Committee shall be appointed by the Chairman of the Council from amongst the members of the Committee :

Povided that where the Deputy Chairman is a member of the Committee, he shall be appointed Chairman of the Committee.

(2) If the Chairman of the Committee is for any reason unable to act, the Chairman of the Council may similarly appoint another Chairman of the Committee in his place.

(3) If the Chairman of the Committee is absent from any meeting, the Committee shall choose another member to act Chirman of the Committee for that meeting.

Quorum of Select Committee.

74. (1) In order to constitute a meeting of the Committee, the quorum shall be one-third of the total number of members of the Committee.

(2) If at the time fixed for any meeting of the Select Committee, or if at any time during any such meeting there is no quorum the Chairman of the Committee shall either suspend the meeting until there is a quorum or adjourn the meeting to some future day.

(3) Where the Select Committee has been adjourned in pursuance of sub-rule

(2) on two successive dates fixed for meeting of the Committee, the Chairman of the Committee shall report the fact to the Council.

Discharge of members absent from meetings of the Select Committee.

75. If a member is absent from two or more consecutive meetings of the Select Committee, without the permission of the Chairman of the Committee, a motion may be moved in the Council for the discharge of such member from the Committee.

Members other than members of the Committee may be present at a meeting.

76. Members who are not members of a Select Committee may be present during the deliberations of the Committee but shall not address the Committee nor sit in the body of the Committee:

Provided that a Minister may with the permission of the Chairman of the Committee address the Committee of which he may not be a member.

Casting vote of Chairman of Select Committee.

77. In the case of equality of votes on any matter the Chairman of the Committee or other person presiding shall have a second or casting vote.

Power to appoint sub-committees.

78. A Select Committee may appoint a sub-committee to examine any special points connected with the Bill. The order of reference to such sub-committee shall clearly state the point or points for investigation. The report of the sub-committee shall be considered by the whole committee.

Meetings of Select Committee.

79. The meetings of a Select Committee shall be held on such days and at such hour as the Chairman of the Committee may fix:

Provided that if the Chairman of the Committee is not readily available, the Secretary may, in consultation with the Minister whose Ministry is concerned with the Bill, fix the date and time of a meeting.

Sittings of Select Committee.

80. A Select Committee may sit whilst the Council is sitting provided that on a division being called in the Council the Chairman of the Committee shall suspend the proceedings in the Committee for such time as will in his opinion enable members to vote in the division.

Venue of sittings.

81. No sitting of a Select Committee shall be held outside the precincts of the Parliament House :

Provided that if in any case it is considered necessary to hold such a sitting outside the Parliament House, the matter shall be referred to the Chairman whose decision shall be final.

Notice of amendments and procedure generally in Select Committee.

82. (1) If notice of a proposed amendment has not been given before the day on which the Bill is taken up by the Select Committee, any member may object to the moving of the amendment and such objection shall prevail unless the Chairman of the Committee allows the amendment to be moved.

(2) In other respects, the procedure in a Select Committee shall, as far as practicable, be the same as is followed in the Council during the consideration stage of a Bill, with such adaptations, whether by way of modification, addition or omission, as the Chairman may consider necessary or convenient.

Notice of amendments by members other than members of Select committee.

83. When a Bill has been referred to a Select Committee, any notice given by a member of any amendment to a clause in the Bill shall stand referred to the Committee provided that where notice of amendment is received from a member who is not a member of the Select Committee such amendment shall not be taken up by the Committee unless moved by a member of the Committee.

Power to take evidence or call for papers, records or documents.

84. (1) A Select Committee shall have power to require the attendance of persons or the production of papers or records, if such a course is considered necessary for the discharge of its duties :

Provided that if any question arises whether the evidence of a person or the production of a document is relevant for the purposes of the Committee, the question shall be referred to the Chairman of the Council whose decision shall be final :

Provided further that Government may decline to produce a document on the ground that its disclosure would be prejudicial to the safety or interest of the State.

(2) Subject to the provisions of this rule, a witness may be summoned by an order signed by the Secretary and shall produce such documents as are required for the use of the Committee.

(3) A Select Committee may hear expert evidence and representatives of special interest affected by the measure before them.

(4) No document submitted to the Committee shall be withdrawn or altered without the knowledge and approval of the Committee.

Procedure for examining witnesses.

85. The examination of witnesses before a Select Committee shall be conducted as follows:—

(1) The Select Committee shall before a witness is called for examination decide the mode of procedure and the nature of questions that may be put to the witness.

(2) The Chairman of the Select Committee may first put to the witness such question or questions as he may consider necessary with reference to the subject matter of the Bill or any connected subject thereto according to the mode of procedure mentioned in sub-rule (1) of this rule.

(3) The Chairman of the Committee may call other members of the Select Committee one by one to put any other questions.

(4) A witness may be asked to place before the Committee any other relevant points that have not been covered and which a witness thinks are essential to be placed before the Committee.

(5) A verbatim record of proceedings of the Select Committee when a witness is summoned to give evidence shall be kept.

Printing and publication of evidence tendered before a Select Committee.

86. (1) The evidence tendered before the Select Committee under rule 85 may be made available to all members of the Select Committee.

(2) The Committee may direct that the whole or a part of the evidence or a summary thereof may be laid on the Table of the Council.

(3) The evidence given before a Select Committee shall not be published by any member of the Select Committee or by any other person until it has been laid on the Table :

Provided that the Chairman of the Council may, in his discretion, direct that such evidence be coofidentially made available to members before it is formally laid on the Table.

Power of Chairman to give direction on a point of procedure or otherwise.

87. (1) The Chairman of the Council may from time to time issue such directions to the Chairman of the Committee as he may consider necessary for regulating its procedure and the organization of its work.

(2) If any doubt rises on any point of procedure or otherwise, the Chairman of the Committee may, if he thinks fit, refer the point to the Chairman of the Council whose decision shall be final.

Power of Select Committee to make suggestions on procedure.

88. A Select Committee shall have power to pass resolutions on matters of procedure relating to Select Committees for the consideration of the Chairman of the Council, who may make such variations in procedure as he may consider necessary.

Record of the decisons of a Select Committee.

89. A record of the decisions of a Select Committee shall be maintained and circulated to members of the Committee under the direction of the Chairman of the Committee.

Reports by Select Committee.

90. (1) As soon as may be after a Bill has been referred to a Select Committee the Select Committee shall meet form time to time in accordance with rule 79 to consider the Bill and shall make a report thereon within the time fixed by the Council:

Provided that where the Council has not fixed any time for the presentation of the report, the report shall be presented before the expiry of three months from the date on which the Council adopted the motion for the reference of the Bill to the Select Committee :

Provided further that the Council may at any time, on a motion being made, direct that the time for the presentation of the Report by the Select Committee be extended to a date specified in the motion.

(2) Reports may be either preliminary or final.

(3) The Select Committee shall in their report state whether the publication of the Bill directed by these rules has taken place, and the date on which the publication has taken place.

(4) Where a Bill has been altered the Select Committee may, if they think fit, include in their report a recommendation to the member in charge of the Bill that his next motion should be a motion for circulation, or, where the Bill has already been circulated, for re-cirulation.

(5) The report of the Select Committee shall be signed by the Chairman of the Committee on behalf of the Committee:

Provided that in case the Chairman of the Committee is absent or is not readily available, the Committee shall choose another member to sign the report on behalf of the Committee.

(6) Any member of the Select Committee may record a minute of dissent on any matter or matters connected with the Bill or dealt with in the report.

(7) If in the opinion of the Chairman of the Council a minute of dissent contains words, phrases or expressions which are unparliamentary or otherwise inappropriate, he may order such words, phrases or expressions to the expunged from the minute of dissent.

Presentation of Report.

91. (1) The Report of the Select Committee on a Bill together with the minutes of dissent, if any, shall be presented to the Council by the Chairman of the Committee or in his absence by any member of the Committee.

(2) In presenting a report the Chairman of the Committee or, in his absence, the member presenting the report shall, if he makes any remarks, confine himself to a brief statement of fact, but there shall be no debate at this stage.

Printing and publication of reports.

92. The Secretary shall cause every report of a Select Committee to be printed and a copy of the report shall be made available for the use of every member of the Council. The report, and the Bill as reported by the Select Committee, shall be published in the Gazette.

(d) *Procedure after Presentation of Report of a Select Committee or a Joint Committee*

Motions that may be moved after presentation of the report of a Select Committee / Joint Committee.

93. (1) After the presentation of the final report of a Select Committee of the Council, or a Joint Committne of the Houses, on a Bill, the member in charge may move—

(a) that the Bill as reported by the Select Committee of the Council, or the Joint Committee of the Houses, as the case may be, be taken into consideration:

Provided that any member of the Council may object to its being so taken into consideration if a copy of the report has not been made available for the use of members for two days, and such objection shall prevail, unless the Chairman allows the report to be taken into consideration; or

(b) that the Bill as reported by the Select Committee of the Council, or the Joint Committee of the Houses. as the case may be, be re-committed either—

(i) without limitation; or

(ii) with respect to particular clauses or amendments only, or

(iii) with instructions to the Committee to make some particular or an additional provision in the Bill; or

(c) that the Bill as reported by the Select Committee of the Council, or the Joint Committee of the Houses, be circulated or recirculated, as the case may be, for the purpose of obtaining opinion or further opinion thereon.

(2) If the member in charge moves that the Bill as reportd by the Select Committee of the Council or the Joint Committee of the Houses, as the case may be, be taken into consideration, any member may move as an amendment that the Bill be re-committed or be circulated or re-circulated for the purpose of obtaining opinion or further opinion thereon.

Scope of debate on report of Select/Joint Committee.

94 The debate on a motion that Bill as reported by the Select Committe of the Council, or the Joint Committee of the Houses, as the case may be, be taken into consideration shall be confined to considerateion of the report of the Select Committee and the matters referred to in that report or any alternative suggestions consistent with the principle of the Bill.

(e) *Amendments to Clauses, etc. and Consideration of Bills*

Notice of amendments.

95. (1) If notice of an amendment has not been given one day before the day on which the Bill is to be considered, any member may object to the amendent, and such objection shall prevail, unless the Chairman allows the amendment to be moved:

Provided that, in the case of a Government Bill, an amendment, of which notice has been received from the member in charge, shall not lapse by reason of the fact that the member in charge has ceased to be a Minister or a member and such amendment shall be printed in the name of the new member in charge of the Bill.

(2) The Secretary shall, if time permits, make available to members from time to time lists of amendments of which notices have been received.

Conditions of admissibility of amendments.

96. The following conditions shall govern the admissibility of amendments:—

(i) An amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates.

(ii) An amendment shall not be moved which has merely the effect of a negative vote,

(iii) An amendment shall not be inconsistent with any previous decision of the Council on the same question.

(iv) An amendment shall not be such as to make the clause which it proposes to amend unintelligible or ungrammatical.

(v) If an amendment refers to, or is not intelligible without, a subsequent amendment or schedule, notice of the subsequent amendment or schedule shall be given before the first amendment is moved, so as to make the series of amendments intelligible as a whole :

Provided that in order to save time and repetition of arguments, a single discussion may be allowed to cover a series of interdependent amendments.

(vi) The Chairman shall determine the place in which an amendment shall be moved.

(vii) The Chairman may refuse to propose an amendment which is, in his opinion, frivolous or meaningless.

(viii) An amendment may be moved to an amendment which has already been proposed by the Chairman,

Sanction or recommendation of the President to be annexed to notice of amendment.

97. If any member desires to move an amendment which under the Constitution cannot be moved without the previous sanction or recommendation of the President, he shall annex to the notice required by these rules such sanction or recommendation conveyed through a Minister and the notice shall not be valid until this requirement is complied with.

Communication of sanction or recommendation of President in respect of amendments to Bills.

98. The orders of the President granting or withholding the sanction or recommendation to an amendment to a Bill shall be communicated to the Secretary by the Minister concerned in writing.

Power of Chairman to select new clauses or amendments.

99. The Chairman shall have power to select the new clauses or amendments to be proposed, and may, if he thinks fit, call upon any member who has given notice of an amendment to give such explanation of the object of the amendment as may enable him to form a judgment upon it.

Arrangement of amendments.

100. Amendments of which notice has been given, shall, as far as practicable, be arranged in the list of amendments, issued from time to time, in the order in which they may be called. In arranging amendments raising the same question at the same point of a clause, precedence may be given to an amendment moved by the member in charge of the Bill. Subject as aforesaid, amendments may be arranged in the order in which notice of them is received.

Order of amendments.

101. Amendments shall ordinarily be considered in the order of the clauses of the Bill to which they respectively relate ; and in respect of any such clause a motion shall be deemed to have been made : "That this clause stands part of the Bill."

Mode of moving amendments.

102. When a motion that a Bill be taken into consideration has been carried, any member when called upon by the Chairman may move an amendment to the Bill of which he has previously given notice

Withdrawal of amendments.

103. An amendment moved may, by leave of the Council, but not otherwise, be withdrawn, on the request of the member moving it. If an amendment has been proposed to an amendment, the original amendment shall not be withdrawn until the amendment proposed to it has been disposed of.

Submission of a Bill clause by clause.

104. Notwithstanding anything in these rules, the Chairman may, when a motion that a Bill be taken into consideration has been carried, submit the Bill, or any part of the Bill, to the Council clause by clause. The Chairman may call each clause separately, and, when the amendments relating to it have been dealt with shall put the question: "That this clause (or, as the case may be, that this clause as amended) stand part of the Bill."

Postponement of clause.

105. The Chairman may, if he thinks fit, postpone the consideration of a clause.

Schedule.

106. The consideration of the schedule or schedules, if any, shall follow the consideration of clauses. Schedules shall be put from the Chair, and may be amended, in the same manner as clauses, and the consideration of new schedules shall follow the consideration of the original schedules, The question shall then be put: "That this schedule (or, as the case may be, that this schedule as amended) stand part of the Bill."

Clause one, enacting formula, preamble and title of the Bill.

107. Clause one, the enacting formula, the preamble, if any, and the title of a Bill shall stand postponed until the other clauses and schedules (including new clauses and new schedules) have been disposed of and the Chairman shall then put the question: "That clause one, the enacting formula, or the preamble or the title (or as the case may be, that clause one, the enacting formula, preamble or title as amended) do stand part of the Bill."

Power of the Chairman to correct patent errors and make consequential changes in a Bill as passed.

108. Where a Bill is passed by the Council, the Chairman shall have power to correct patent errors and make such other changes in the Bill as are consequential on the amendments accepted by the Council.

(f) *Passing of Bills*

Passing of Bills.

109. (1) When a motion that a Bill be taken into consideration has been carried and no amendment of the Bill is made, the member in charge may at once move that the Bill be passed.

(2) If any amendment of the Bill is made, any member may object to any motion being made on the same day that the Bill be passed, and such objection shall prevail unless the Chairman allows the motion to be made.

(3) Where the objection prevails, a motion that the Bill be passed may be brought forward on any future day.

(4) To such a motion no amendment may be moved which is not either formal, verbal or consequential upon an amendment made after the Bill was taken into consideration,

Scope of Debate.

110. The discussion on a motion that the Bill be passed shall be confined to the submission of arguments either in support of the Bill or for the rejection of the Bill. In making his speech a member shall not refer to the details of the Bill further than is necessary for the purpose of his arguments which shall be of a general character.

Bills passed by Council.

111. When a Bill is passed by the Council, it shall be transmitted to the House for concurrence with a message to that effect.

(g) *Bills other than Money Bills returned by House with amendments*

Bills returned by the House with amendment.

112. If a Bill other than a Money Bill passed by the Council and transmitted to the House is returned to the Council with amendment, it shall on receipt be laid on the Table.

Notice of motion for consideration of amendment.

113. After the amended Bill has been laid on the Table, any Minister in the case of a Government Bill, or in any other case any member, after giving two days, notice, or with the consent of the Chairman without notice, may move that the amendment be taken into consideration.

Procedure on consideration of amendment.

114. (1) If a motion that the amendment be taken into consideration is carried, the Chairman shall put the amendment to the Council in such manner as he thinks most convenient for its consideration.

(2) An amendment relevant to the subject matter of the amendment made by the House may be moved, but no further amendment shall be moved to the Bill unless it is consequential upon, or an alternative to, an amendment made by the House.

Disposal of amendment.

115. The Council if it agrees to the amendment made by the House shall send a message to the House to that effect, but if it disagrees with that amendment or proposes further amendment or an alternative amendment, the Council shall return the Bill as amended to the House with a message to that effect.

Disagreement between the Houses.

116. If the Bill is returned to the Council with a message that the House insists on an amendment or amendments to which the Council has disagreed, the Houses shall be deemed to have finally disagreed as to the amendment or amendments.

(h) *Adjournment of Debate on, and withdrawal and removal of, Bills*

Adjournment of the debate on a Bill.

117. At any stage of a Bill which is under discussion in the Council a motion than the debate on the Bill be adjourned may be moved with the consent of the Chairman.

Withdrawal of a Bill.

118. The member in charge of a Bill may at any stage of the Bill move for leave to withdraw the Bill,and if such leave is granted, no further motion shall be made with reference to the Bill:

Provided that where a Bill has been referred to a Select Committee of the Council or a Joint Committee of the Houses, as the case may be, notice of any motion for the withdrawal of the Bill shall automatically stand referred to the Committee and after the Committee has expressed its opinion in a Report to the Council the motion shall be set down in the List of business:

Provided further that where a Bill has originated in the House and is pending before the Council, the member in charge shall move a motion in the Council recommending to the House that the House do agree to leave being granted by the Council to withdraw the Bill and after the motion is adopted by the Council and concerned in by the House, the member in charge shall move for leave to withdraw the Bill.

Explanatory statement by member who moves or opposes withdrawal motion.

119. If a motion for leave to withdraw a Bill is opposed, the Chairman may, if he thinks fit, permit the member who moves and the member who opposes the motion to make brief explanatory statements and may thereafter without further debate, put the question.

Removal of a Bill from the Register of Bills.

120. (1) Where any of the following motions under these rules in regard to a Bill originating in the Council is rejected by the Council, no further motion shall be made with reference to the Bill and such Bill shall be removed from the Register of Bills pending in the Council :—

(i) that leave be granted to introduce the Bill ;

(ii) that the Bill be referred to a Select Committee of the Council or a Joint Committee of the Houses ;

(iii) that the Bill be taken into consideration ;

(iv) that the Bill as reported by Select Committee of the Council or a Joint Committee of the Houses, as the case may be, be taken into considera• tion ; and

(v) that the Bill (or, as the case may be, that the Bill, as amended) be passed.

(2) A Bill pending before the Council shall also be removed from the Register of Bills pending in the Council in c se the Bill is withdrawn under rule 118.

(3) A private members Bill pending before the Council shall also be remoed from the Register of Bills pending in the Council in case the member in charge ceases to be a member of the Council.

II BILLS ORIGINATING IN THE HOUSE AND TRANSMITTED TO THE COUNCIL

Bills originating in and passed by the House and transmitted to the Council.

121. When a Bill originating in the House has been passed by the House and is transmitted to the Council, the Bill shall, as soon as may be, be laid on the Table.

Notice.

122. At any time after the Bill has been so laid on the Table, any Minister in the case of a Government Bill, or, in any other case, any member may give notice of his intention to move that the Bill be taken into consideration.

Motion for consideration.

123. On the day on which the motion for consideration is set down in the list of business which shall, unless the Chairman otherwise directs, be not less than two days from the receipt of the notice, the member giving notice may move that the Bill be taken into consideration.

Discussion.

124. On the day on which such motion is made or on any subsequent day to which the discussion is postponed, the principles of the Bill and its general provisions may be discussed, but the details of the Bill must not be discussed further than is necessary to explain its principles.

Reference to Select Committee.

125. Any member may (if the Bill has not already been referred to a Joint Committee of the Houses, but not otherwise) move as an amendment that the Bill be referred to a Select Committee and, if such motion is carried. the Bill shall be referred to a Select Committee and the rules regarding Select Committees on Bills originating in the Council shall then apply.

Consideration and passing.

126. If the motion that the Bill be taken into consideration is carried, the Bill shall be taken into consideration clause by clause and the provisions of the Rules of the Council regarding consideration of amendments to Bills and the subsequent procedure in regard to the passing of Bills shall apply.

Bill passed without amendment.

127. If the Bill is passed without amendment, a message shall be sent to the House intimating that the Council has agreed to the Bill without any amendment.

Bill passed with amendments.

128. If the Bill is passed with amendments, the Bill shall be returned with a message asking the concurrence of the House to the amendments.

Procedure consequent on consideration of amendments.

129. If the House disagrees with the amendments made by the Council or any of them, or agrees to any of the amendments made by the Council with further amendments or proposes further amendments in place of amendments made by the Council, the Bill as further amended shall on receipt by the Council be laid on the Table.

Appointment of time for consideration of amendments.

130. After the amended Bill has been laid on the Table, any Minister in the case of a Government Bill, or, in any other case, any member after giving two days' notice, or with the consent of the Chairman without notice, may move that the amendments be taken into consideration,

Procedure on consideration of amendments.

131. (1) If a motion that the amendments be taken into consideration is carried, the Chairman shall put the amendments to the Council in such manner as he thinks most convenient for their consideration.

(2) Further amendments relevant to the subject matter of the amendments made by the House may be moved, but no further amendment shall be moved to the Bill, unless it is consequential upon, or an alternative to, an amendment made by the House.

Disposal of amendments.

132. The Council may either agree to the Bill as originally passed in the House or as further amended by the House, as the case may be, or may return the Bill with a message that it insists on an amendment or amendments to which the House has disagreed.

Disagreement between Houses.

133. If a Bill is returned with a message intimating that the Council insists on amendments to which the House is unable to agree, the Houses shall be deemed to have finally disagreed as to the amendments.

Rejection of a Bill.

134. When any of the following motions moved in the Council with reference to a Bill originating in the House and transmitted to the Council is negatived by the Council, the Bill shall be deemed to have been rejected by the Council:

(i) that the Bill be referred to a Select Committee of the Council;

(ii) that the Bill be taken into consideration;

(iii) that the Bill as reported by Select Committee of the Council be taken into consideration; and

(iv) that the Bill (or, as the case may be, that the Bill as amended) be passed.

III. Authentication and Reconsideration of Bills

Authentication of a Bill.

135. When a Bill is passed by the Houses and is in possession of the Council, a copy thereof shall be signed by the Chairman, and presented to the President:

Provided that in the absence of the Chairman from New Delhi, the Secretary may authenticate the Bill for the Chairman in case of urgency.

Reconsideration by the Council of a Bill passed.

136. When a Bill which has been passed by the Houses is returned by the President for reconsideration, the point or points referred for reconsideration shall be put before the Council by the Chairman, and shall be discussed and voted upon in the same manner as amendments to a Bill, or in such other way as the Chairman may consider most convenient for their consideration by the Council.

CHAPTER X

Petitions

Petitions.

137. Petitions may be presented or submitted to the Council whith the consent of the Chairman in accordance with these rules.

Scope of petitions.

138. Petitions may relate to—

(i) a Bill which has been published under rule 61 or which has been introduced or in respect of which notice of a motion has been received under these rules;

(ii) any other matter connected with the business pending before the Council; and

(iii) any matter of general public interest provided that it is not one—

(a) which falls within the cognizance of a court of law having jurisdiction in any part of India or a court of enquiry or a staturoty tribunal or authority or quasi-judicial body or commission;

(b) which raises matters which are not primarily the concern of the Government of India;

(c) which can be raised on a substantive motion or resolution; or

(d) for which remedy is available, under the law ; including rules, regulations or bye-laws made by the Central Government or by an authority to whom power to make such rules, regulations or bye-laws is delegated.

General form of petition.

139. (1) The general form of petition set out in the Schedule, with such variations as the circumstances of each case require, may be used and, if used, shall be sufficient.

(2) Every petition shall be couched in respecful and temperate language.

(3) Every petition shall be either in Hindi or in English. If any petition in any other language is made, it shall be accompanied by a translation either in Hindi or in English, and signed by the petitioner.

Authentication of signatories to a petition.

140. The full name and address of every signatory to a petition shall be set out therein and shall be authenticated by the signatory, if literate by his signature and if illiterate by his thumb impression.

Documents not to be attached.

141. Letters, affidavits or other documents shall not be attached to any petition.

Countersignature.

142. Every petition shall, if presented by a member, be countersigned by him.

Petition to whom to be addressed and how to be concluded,

143. Every petition shall be addressed to the Council and shall conclude with a prayer reciting the definite object of the petitioner in regard to the matter to which it relates.

Notice of presentation.

144. A member shall give advance intimation to the Secretary of his intention to present a petition.

Presentation of petition.

145. A petition may be presented by a member or be forwarded to the Secretary, in which latter case the fact shall be reported by him to the Council, and no debate shall be permitted on the making of such report.

Form of presentation.

146. A member presenting a petition shall confine himself to a statement in the following form:—

"I beg to present a petition signed by.....petitioner (s) regarding....." and no debate shall be permitted on this statement.

Constitution of Committee on petitions-

147. (1) The Chairman shall, form time to time, nominate a Committee on Petitions consisting of ten members.

(2) The Committee nominated under sub-rule (1) shall hold office until a new Committee is nominated.

(3) Casual vacancies in the Committee shall be filled by the Chairman.

Quorum.

148. The quorum of the Commitee shall be five.

Chairman of committee on Petitions.

149. (1) The Chairman of the Committee shall be appointed by the Chairman of the Council from amongst the members of the Committee:

Provided that if the Deputy Chairman is a member of the Committee, he shall be appointed Chairman of the Committee.

(2) If the Chairman of the Committee is for any reason unable to act, the Chairman of the Council may similarly appoint another Chairman of the Committee in his place.

(3) If the Chairman of the Committee is absent from any meeting, the Committee shall choose another member to act as Chairman of the Committee for that meeting.

Reference to Committee.

150. Every petition shall, after presentation by a member or report by the Secretary, as the case mey be, stand referred to the Committee of Petitions.

Examination and circulation of petitions.

151. (1) The Committee shall examine every petition referred to it, and if the petition complies with these rules, the Committee may in its discretion direct that it be circulated. Where circulation of the petition has not been directed, the Chairman may at any time, direct that the petition be circulated.

(2) Circulation of the petition shall be *in extenso* or in a summary form as the Committee, or the Chairman, as the case may be, may direct.

Report of Committee on Petitions.

152. (1) The Committeee shall report to the Council stating the subject matter of the petition, the number of persons by whom it is signed and whether it is in conformity with these rules, and also whether circulation has or has not been directed.

(2) It shall also be the duty of the Committee to report to the Council on specific complaints made in the petition referred to it after taking such evidence as it deems fit and to suggest remedial measures either in a concrete form applicable to the case under review or to prevent such cases in future.

Presentation of Report.

153. The Report of the Committee shall be presented to the Council by the Chairman of the Committee or, in his absence, by any member of the Committee.

CHAPTER XI

RESOLUTIONS

Notice of Resolution.

154. A member other than a Minister who wishes to move a resolution shall give fifteen clear days' notice of his intention and shall, together with the notice, submit the text of the resolution which he wishes to move:

Provided that the Chairman may allow it to be entered in the list of business with shorter notice than fifteen days.

Form of Resolution.

155. A resolution may be in the form of a declaration of opinion by the Council.

Subject matter of Resolution.

156. Subject to the provisions of these rules, any member may move a resolution relating to a matter of general public interest.

Conditions of admissibility of Resolution.

157. In order that a resolution may be admissible, it shall satisfy the following conditions, namely:—

(i) it shall be clearly and precisely expressed;

(ii) it shall raise substantially one definite issue;

(iii) it shall not contain arguments, inferences, ironical expressions, imputations or defamatory statements;

(iv) it shall not refer to the conduct or character of persons except in their official or public capacity; and

(v) it shall not relate to any matter which is under adjudication by a court of Law having jurisdiction in any part of India.

Chairman to decide admissibility of Resolution.

158. The Chairman shall decide on the admissiblity of a resolution, and may disallow a resolution or a part thereof when in his opinion it does not comply with these rules.

Moving of Resolution.

159. (1) A member in whose name a resolution stands on the list of buiness shall, except when he wishes to withdraw it, when called on, move the resolution, in which case he shall commence his speech by a formal motion in the terms appearing in the list of business.

(2) A member may, with the permission of the Chairman, authorise any other member in whose name the same resolution stands lower in the list of business, to move it on his behalf, and the member so authorised may move accordingly.

(3) If a member other than a Minister, when called on is absent, any other member authorised by him in writing in this behalf may, with the permission of the Chairman, move the resolution standing in his name.

Amendments.

160. (1) After a resolution has been moved, any member may subject to the rules relating to resolutions, move an amendment to the resolution.

(2) If notice of such amendment has not been given one day before the day on which the resolution is moved, any member may object to the moving of the amendment, and such objection shall prevail unless the Chairman allows the amendment to be moved.

(3) The Secretary shall, if time permits, make available to members from time to time lists of amendments of which notices have been given.

Time limit of speeches.

161. No speech on a resolution, except with the permission of the Chairman, shall exceed fifteen minutes in duration:

Provided that the mover of a resolution, when moving the same and the Minister concerned when speaking for the first time, may speak for thirty minutes or for such longer time as the Chairman may permit.

Scope of discussion.

162. The discussion of a resolution shall be strictly relevant to and within the scope of the resolution.

Withdrawal of Resolution and amendment.

163. (1) A member in whose name a resolution stands on the list of business may, when called on, withdraw the resolution in which case he shall confine himself to a mere statement to that effect.

(2) A member who has moved a resolution or amendment to a resolution shall not withdraw the same except by leave of the Council.

(3) If a resolution which has been admitted is not discussed during the session it shall be deemed to have been withdrawn.

Splitting of Resolution.

164. When any resolution involving several points has been discussed, the Chairman may divide the resolution, and put each or any point separately to the vote, as he may think fit.

Repetition of Resolution.

165. (1) When a resolution has been moved no resolution or amendment raising substantially the same question shall be moved within one year from the date of the moving of the earlier resolution.

(2) When a resolution has been withdrawn with the leave of the Council, no resolution raising substantially the same question shall be moved during the same session.

Copy of Resolution passed to be sent to Minister.

166. A copy of every resolution which has been passed by the Council shall be forwarded to the Minister concerned.

CHAPTER XII

MOTIONS ON MATTERS OF PUBLIC INTEREST AND "MOTION FOR PAPERS"

Discussion on a matter of public interest by motion.

167. Save in so far as is otherwise provided by the Constitution or by these rules, no discussion of a matter of general public interest shall take place except on a motion made with the consent of the Chairman.

Notice of a motion.

168. Notice of the motion shall be given in writing addressed to the Secretary.

Conditions of admissibility of a motion.

169. In order that a motion may be admissible it shall satisfy the following conditions, namely :

(i) it shall raise substantially one definite issue;

(ii) it shall not contain arguments, inferences, ironical expressions, imputations or defamatory statements :

(iii) it shall not refer to the conduct or character of persons except in their public capacity ;

(iv) it shall be restricted to a matter of recent occurrence ;

(v) it shall not raise a question of privilege ;

(vi) it shall not revive discussion of a matter which has been discussed in the same session ;

(vii) it shall not anticipate discussion of a matter which is likely to be discussed in the same session ; and

(viii) it shall not relate to any matter which is under adjudication by a court of law having jurisdiction in any part ot India.

Chairman to decide admissibility of a motion.

170. The Chairman shall decide on the admissibility of a motion and may disallow a motion or a part thereof when in his opinion it does not comply with these rules.

Circulation of No-Day-Yet-Named Motions.

171. If the Chairman admits notice of a motion and no date is fixed for the discussion of such motion it shall be immediately notified in the Bulletin with the heading "No-Day-Yet-Named Motion".

Allotment of time for discussion of motions.

172. The Chairman may after considering the state of business in the Council and in consultation with the Leader of the Council allot a day or days or part of a day for the discussion of any such motion.

Chairman to put question at the appointed time.

173. The Chairman shall at the appointed hour on the allotted day, or as the case may be, the last of the allotted days forthwith put every question necessary to determine the decision of the Council on the original question.

Time limit for speeches.

174. The Chairman may, if he thinks fit, prescribe a time limit for speeches.

MOTION FOR PAPERS

Motion for Papers.

175. (i) Any member desirous of raising discussion on a matter of urgent public importance may give notice of a motion "for papers" and specify clearly and precisely the matter to be raised.

(ii) If the Chairman is satisfied after calling for such information from the member who has given notice and from the Minister as he may consider necessary that the matter is urgent and of sufficient improtance to be raised in the Council at an early date he may admit the motion and fix the date on which such motion may be taken up and allot such time for its discussion not exceeding three hours as he may consider appropriate in the circumstances :

Provided that, if an early opportunity is otherwise available for the discussion of the proposed matter the Chairman may refuse to admit the motion.

(iii) If, at the end of such a discussion the motion is not by leave of the Council withdrawn or the Minister states that there are no papers to be laid on the Table or if the papers are available they cannot be laid on the Table on the ground that it will be detrimental in the public interest to do so, it will be open

to any member to move an amendment, recording the opinion of the Council on the matter, in such form as may be considered appropriate by the Chairman.

(iv) An amendment, if moved, will be put to the Council without discussion unless the Chairman in his discretion thinks fit to allot further time for the elucidation of any matters arising out of the amendment.

(v) In other respects rules governing the admission and discussion of a motion "for papers" shall be the same as for motions on matters of public interest with such modifications as the Chairman may consider necessary or convenient.

CHAPTER XIII

DISCUSSION ON MATTERS OF URGENT PUBLIC IMPORTANCE FOR SHORT DURATION

Notice oi raising discussion.

176. Any member desirous of raising discussion on a matter of urgent public importance may give notice in writing to the Secretary specifying clearly and precisely the matter to be raised:

Provided that the notioe shall be accompanied by an explanatory note stating reasons for raising on the matter in question:

Provided further that the notice shall be supported by the signatures of at least two other members.

Chairman to decide admissibility.

177. If the Chiarman is satisfied, after calling for such information from the member who has given notice and from the Minister as he may consider necessary, that the matter is urgent and is of sufficient public imoprtance to be raised in the Council at an early date, he may admit the notice and in consultation with the Leader of the Council fix the date on which such matter may be taken up for discussion and allow such time for discussion, not exceeding two and a half hours, as he may consider appropriate in the circumstances;

Provided that if an early opportunity is otherwise available for the discussion of the matter, the Chairman may refuse to admit the notice.

No formal motion.

178. There shall be no formal motion before the Council nor voting. The member who has given notice may make a short statement and the Minister shall reply shortly. Any member who has previously intimated to the Chairman may be permitted to take part in the discussion.

Time limit for speeches.

179. The Chairman may, if he thinks fit, prescribe a time limit for speeches.

CHAPTER XIV

CALLING ATTENTION TO MATTERS OF URGENT PUBLIC IMPORTANCE

Calling attention to matters of urgent public importance.

180. (1) A member may, with the previous permission of the Chairman, call the attention of a Minister to any matter of urgent public importance and the Minister may make a brief statement or ask for time to make a statement at a later hour or date.

(2) There shall be no debate on such statement at the time it is made.

(3) Not more than one such matter shall be raised at the same sitting.

(4) In the event of more than one matter being presented for the same day, priority shall be given to the matter which is, in the opinion of the chairman, more urgent and important.

(5) The proposed matter shall be raised after the questions and before the list of business is entered upon and at no other time during the sitting of the council.

CHAPTER XV

PROCEDURE IN FINANCIAL MATTERS

The Budget.

181. (1) The Annual Financial Statement or the Statement of the estimated Receipts and Expenditure of the Government of India in respect of each financial year (hereinafted referred to as "the Budget") shall be presented to the Council on such day as the President may direct.

(2) There shall be no discussion on the Budget on the day on which it is presented to the Council.

General discussion on the Budget.

182. (1) On a day to be appointed by the Chairman subsequent to the day on which the Budget is presented and for such time as the Chairman may allot for this purpose, the Council shall be at liberty to discuss the Budget as a whole or any question of principle involved therein, but no motion shall be moved nor shall the Budget be submitted to the vote of the Council.

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

(3) The Chairman may, if he thinks fit, prescribe a time limit for speeches.

Presentation of the Budget in parts.

183. Nothing hereinbefore contained shall be deemed to prevent the presentation of the Budget to the Council in two or more parts and when such presentation takes place, each part shall be dealt with in accordance with these rules, as if it were the Budget.

Business that can be taken up on a day allotted for any kind of financial business.

184. Notwithstanding that a day has been allotted for financial business a motion or motions for leave to introduce a Bill or Bills may be made and a Bill or Bills may be introduced no such day before the Council enters on the business for which the day has been allotted.

Explanation.—Financial business includes any business which the Chairman holds as coming within this category under the Constitution.

Provision as regards Financial Bills referred to in article 117 (1) of the Constitution.

185. (1) If notice of motion for leave to introduce a Bill making provision for any of the matters specified in clause (1) of Article 117 of the Constitution is received the Chairman may direct that it should not be included in the list of business.

(2) On a Bill being put down for introduction a member may at that stage or at any subsequent stage take objection that the Bill is a financial Bill within the meaning of clause (1) article 117 of the Constitution and should not be introduced in the Council.

(3) If the Chairman holds that the Bill is a financial Bill within the meaning clause (1) of article 117 of the Coustitution, he shall terminate discussion on the Bill forthwith and direct that it be struck off from the list of business and be removed from the register of Bills pending in the Council.

(4) If the Chairman has any doubt iu regard to the validity of the objection, he shall refer the matter to the Speaker and if there is no agreement between the Speaker and the Chairman shall report the matter to the Council and take the sense of the Council as to whether they wish to proceed further with the Bill.

Money Bills.

186. (1) A money Bill passed by the House and transmitted to the Council shall, as soon as may be, be laid on the Table.

(2) The Chairman in consultation with the Leader of the Council shall within two days of the Bill being so laid on the Table allot a day or days or part of a day for the completion of all or any of the stages involved in the consideration and return of the Bill by the Council including the consideration and passing of amendments, if any, to the Bill.

(3) When such an allotment has been made, the Chairman shall at the appointed hour on the allotted day or the last of the allotted days, as the case may be, forthwith put all the questions necessary to dispose of the outstanding matters in connection with the stage or stages for which a day or part of a day has been allotted.

(4) After the motion that the Bill be taken into consideration has been carried, the Bill shall be taken up clause by clause. At this stage amendments to be recommended to the House may be moved to the Bill and the provisions of the Rules of the Council regarding consideration of, amendments to Bills shall apply.

(5) After the Bill has been considered clause by clause and the amendments, if any, have been disposed of the member in charge of the Bill shall move that the Bill be returned.

(6) When the motion that the Bill be returned has been carried, the Bill shall be returned to the House, in the case where the Council does not make any recommendations, with a message that the Council has no recommendations to make to the House in regard to the Bill, and in the case where any amendments have been recommended by the Council, with a message intimating to the House the amendments so recommended.

(7) On a Bill being introduced in the Council or at any subsequent stage, if an objection is taken that a Bill is a money Bill within the meaning of Article 110 and should not be proceeded with in the Council, the Chairman shall if he holds the objection valid direct that further proceedings in coenection with the Bill be terminated.

(8) If the Chairman has any doubt in regard to the validity of the objection, he shall refer the matter to the Speaker whose decision on the question shall be final in accordance with clause (3) of article 110 of the Constitution.

CHAPTER XVI

QUESTIONS OF PRIVILEGE

Question of privilege.

187. Subject to the provisions of these rules, a member may, with the consent of the Chairman, raise a question involving a breach of privilege either of a member, or of the Council or of a committee thereof.

Notice of question of privilege.

188. A member wishing to raise a question of privilege shall give notice in writing to the Secretary before the commencement of the sitting on the question is proposed to be raised If the question proposed to be raised is based on a document, the natice shall be accompanied by the document.

Conditions of admissibility of question of privilege.

189. The right to raise a question of privilege shall be governed by the following conditions:—

(i) the question shall be restricted to a specific matter of recent occurrence,

(ii) the matter requires the intervention of the Council.

Mode of raising a question of privilege

190. (1) The Chairman, if he gives consent under rule 187 and holds that the matter proposed to be discussed is in order, shall, after the questions and before the list of business is entered upon, call the member concerned, who shall rise in his place and, while asking for leave to raise the question of privilege make a short statement relevant thereto:

Provided that where the Chairman has refused his consent under rule 187 or is of opinion that the matter proposed to be discussed is not in order, he may. if he thinks it necessary, read the notice of question of privilege and state that he refuses consent or holds that the notice of question privilege is not in order:

Provided further that the Chairman may, if he is satisfied about the urgency of the matter, allow a question of privilege to be raised at any time during the course of a sitting after the disposal of questions.

(2) If objection to leave being granted is taken, the Chairman shall request those members who are in favour of leave being granted to rise in their places and if not tess than twenty-five members rise accordingly the Chairman shall intimate that leave is granted. If less than twenty-five members rise, the Chairman shall inform the member that he has not the leave of the Council.

Reference to Comittee of Committee of Privileges.

191. If leave under rule 190 is granted, the Council may consder the question and come to a decision or refer it to the Committee of Priviliges on a motion made by the Leader of the Council or, in his absence, by any other member.

Constitution of Committee of Privileges.

192. (1) The Chairman shall, from time to time, nominate a Committee of Privileges consisting of ten members.

(2) The Committee nominated under sub-rule (1) shall hold office until a new Committee is nominated.

(3) Casual vacancies in the Committee shall be filled by the Chairman.

Chairman of Committee of Privileges.

193. (1) The Chairman of the Committee shall be appointed by the Chairman from amongst the members of the Committee.

(2) If the Chairman of the Committee is for any reason unable to act, the Chairman may similarly appoint another Chairman of the Committee in his place.

(3) If the Chairman of the Committee is absent from any meeting, the Committee shall choose another member to act as Chairman of the Committee for that meeting.

Quorum of Committee.

194. The quorum of the Committee shall be five.

Examination of the question by Committee.

195. (1) The Committee shall examine every question referred to it and determine with reference to the facts of each case whether a breach of privilege is involved and, if so, the nature of the breach, the circumstances leading to it and make such recommendations as it may deem fit.

(2) Subject to the provisions of sub-rule (1) of this rule, the report may also state the procedure to be followed by the Council in giving effect to the recommendations made by the Committee.

Evidence before Committee of Privileges.

196. (1) The Committee of Privileges shall have power to require the attendance of persons or the production of papers or records, if such a course is considered necessary for the discharge of its duties:

Provided that if any question arises whether the evidence of a person or the production of a document is relevant for the purposes of the Committee, the question shall be referred te the Chairman whose decisions shall be final:

provided further that Government may decline to produce a document on the ground that its disclosure would be prejudicial to the safety or interest of the State.

(2) Subject to the provisions of this rule, a witness may be summoned by an order signed by the Secretary and shall produce such documents as are required for the use of the Committee.

(3) It shall be in the discretion of the Committee to treat any evidence tendered before it as secret or confidential.

Sittings of Committee of Privileges.

197. (1) As soon as may be after a question of privileges has been referred to the Committee of Privileges, the Committee shall meet from time to time and shall make a report within the time fixed by the Council:

Provided that where the Council has not fixed any time for the presentation of the report, the report shall be presented within one month of the date on which reference to the Committee was made:

Provided further that the Council may at any time, on a motion being made, direct that the time for the presentation of the report by the Committee be extended to a date specified in the motion.

(2) Reports may be either preliminary or final.

(3) The report shall be signed by the Chairman of the Committee on behalf of the Committee :

Provided that in case the Chairman of the Committee is absent or is not readily available, Committee shall choose any other member to sign the report on behalf of the Committee.

Presentation of report.

198. The report of the Committee of Privileges shall be presented to the Council by the Chairman of the Committee or in his absence by any member of the Committee.

Consideration of report.

199. As soon as may be, after the report has been presented, a motion in the name of the Chairman of the Committee or any member of the Committee will be put down that the report be taken into consideration.

Ammendments.

200. Any member may give notice of amendment to the motion for consideration of the report to in rule 199 above in such form as may be considered appropriate by the Chairman:

Provided that an amendment may be moved that the question be re-committed to the Committee either without limitation or with reference to any particular matter.

Motion after consideration of the report.

201. After the motion for consideration of the report has been carried, the Chairman or any member of the Committee or any other member, as the case may be, may move that the Council agrees, or disagrees, or agrees with amendments, with the recommendations contained in the report.

Regulation of procedure.

202. The Chairman may issue such directions as he may consider necessary for regulating the procedure in connection with all matters connected with the consideration of the question of privilege either in the Committee or in the Council.

Power of Chairman to refer questions of privilege to Committee.

203. Notwithstanding anything contained in these rules, the Chairman may refer any question of privilege to the Committee of Privileges for examination, investigation or report.

CHAPTR XVII

COMMITTEE ON SUBORDINATE LEGISLATION

Committee on subordinate legislation.

204. There shall be a Committee on subordinate legislation to scrutinise and report to the Council whether the powers delegated by Parliament have been properly exercised within the framework of the statute delegating such powers.

Constitution of the Committe.

205. (1) The Committee shall consist of fifteen members who shall be nominated by the Chairman.

(2) The Committee nominated under sub-rule (1) shall hold office until a new Committee is nominated.

(3) Casual vacancies in the Committee shall be filled by the Chairman.

Chairman of the Committee.

206. (1) The Chairman of the Committee shall be appointed by Chairm on from amongst the members of the Committee:

Provided that if the Deputy Chairman is a member of the Committee, he shall be appointed Chairman of the Committee.

(2) If the Chairman of the Committee is for any reason uuable to act, the Chairman may similarly appoint another Chairman of the Committee in his place.

(3) If the Chairman of the Committee of the Committee is absent from any meeting, the Committee shall choose another member to act as Chairman of the Committee for that meeting.

Quorum.

207. (1) In order to constitute a meeting of the Committee the quorum shall be five.

(2) The Chairman of the Committee shall not vote in the first instance but in the case of an equality of votes on any matter, he shall have, and exercise, a casting vote.

Evidence before Committee.

208. (1) The Committee shall have power to require the attendance of persons or the production of papers or records, if such a course is considered necessary for the discharge of its duties:

Provided that Government may decline to produce a document on the ground that its disclosure would be prejudicial to the safety or interest of the State.

(2) Subject to the provisions of this rule, a witness may be summoned by an order signed by the Secretary and shall produce such documents as are required for the use of the Committee.

(3) It shall be in the discretion of the Committee to treat any evidence tendered before it as secret or confidential

Duties of Committee.

209. After each rule, regulation, bye-law, scheme, or other statutory instrument framed in pursuance of the legislative functions delegated by Parliament to a subordinate authority which is required to be laid before Parliament (hereinafter referred to as the "order") is so laid before the Council, the Committee shall, in particular, consider—

(i) whether it is in accord with the general object of the Act pursant to which it is made;

(ii) whether it contains matter which in the opinion of the Committee should more properly be dealt with in an Act of Parliament;

(iii) whether it contains imposition of taxation;

(iv) whether it directly or indirectly bars the jurisdiction of the court;

(v) whether it gives retrospective effect to any of the provisions in respect of which the Act does not expressly give any such power;

(vi) whether it involves expenditure from the Consolidated Fund of India or the public revenues;

(vii) whether it appears to make some unusual or unexpected use of the powers conferred by the Act pursuant to which it is made;

(viii) whether there appears to have been unjustifiable delay in its publication or laying it before Parliament,

(ix) whether for any reason its form or purport calls for any elucidation

Report of the Committee.

210. (1) If the Committee is of opinion that any order should be annulled wholly or in part, or should be amended in any respect it shall report that opinion and the grounds thereof to the Council.

(2) If the Committee is of opinion that any other matter relating to any order should be brought to the notice of the Council, it may report that opinion and matter to the Council.

Presentation of the Report.

211. The report of the Committee shall be presented to the Council by the Chairman of the Committee or, in his absence, by any member of the Committee.

Regulation of procedure.

212. The Committee shall determine its own procedure in connection with all matters connected with the consideration of any question of subordinate legislation in the Committee.

CHAPTER XVIII

RESIGNATION AND VACATION OF SEATS IN COUNCIL AND LEAVE OF ABSENCE FROM MEETINGS OF COUNCIL

Resignation of seats in Council.

213. (1) As soon as may be, the Chairman shall, after he has recived an intimation in writing from a member under his hand resigning his seat in the Council, inform the Council that such and such a member has resigned his seat in the Council:

Provided that when the Council is not in session, the Chairman shall inform the Council immediately after the Council re-assembles, that such and such a member has resigned his seat in the Council during the inter-session period.

(2) The Secretary shall, as soon as may be, after the Chairman has received such intimation from a member resigning his seat in the Council, cause the information to be published in the Gazette and forward a copy of the notification to the Election Commission for taking steps to fill the vacancy thus caused.

Permission to remain absent from meetings of Council.

214. (1) A member wishing to obtain permission of the Council for remaining absent from meetings thereof under clause (4) of Article 101 of the Constitution shall make an application in writing to the Chairman, stating the period for which he may be permitted to be absent from the meetings of the Council.

(2) After the receipt of an application under sub-rule (1) of this rule the Chairman shall, as soon as may be, read out the application to the Council and ask: "Is it the pleasure of the Council that permission be granted to such and such a member for remaining absent from all meetings of the Council for such and such a period?" If no one dissents, the Chairman shall say: "Permission to remain absent is granted." But if any dissentient voice is heard, the Chairman shall take the sense of the Council and thereupon declare the determination of the Council.

(3) No discussion shall take place on any question before the Council under this rule.

(4) The Secretary shall, as soon as may be, after a decision has been signified by the Council, communicate it to the member.

Vacation of seats in Council.

215. (1) The seat of a member shall be declared vacant, under clause (4) of Article 101 of the Constitution, on a motion by the Leader of the Council or by such other member to whom he may delegate his functions in this behalf.

(2) If the motion referred to in sub-rule (1) of this rule is carried, the Secretary shall cause the information to be published in the *Gazette* and forward a copy of the notification to the Election Commission for taking steps to fill the vacancy thus caused.

CHAPTER XIX

AMENDMENT OF RULES

Rules Committee.

216. A Committee on Rules shall be constituted to consider matters of procedure and conduct of business in the Council and to recommend any amendments or additions to these rules that may be deemed necessary;

Composition of Rules Committee.

217. (1) The Committee on Rules shall be nominated by the Chairman of the Council and shall consist of fifteen members including the Chairman of the Council who shall be the *ex-officio* Chairman of the Committee.

(2) The Committee nominated under sub-rule (1) shall hold office until a new Committee is nominated. Casual vacancies in the Committee shall be filled by the Chairman as soon as possible after they occur.

(3) If the Chairman of the Council is for any reason unable to act as Chairman of the Committee he may appoint another Chairman of the Committee in his place.

(4) If the Chairman of the Committee is absent from any meeting, the Committee shall choose another member to act as Chairman of the Committee for that meeting.

Quorum.

218. (1) In order to constitute a meeting of the Committee the quorum shall be seven.

(2) The Chairman of the Committee shall not vote in the first instance but in the case of an equality of votes on any matter he shall have, and exercise, a casting vote.

Laying of report on the Table.

219. Every report of the Committee containing its recommendations shall be laid on the Table.

Consideration of Report.

220. (1) As soon as may be after the report has been laid on the Table, a motion may be moved by a member of the Committee designated by the Chairman of the Council that the report of the Committee be taken into consideration.

(2) Any member may give notice of amendment to the motion for consideration of the report in such form as may be considered appropriate by the Chairman.

(3) After the motion for consideration of the report has been carried, any member of the Committee designated by the Chairman may move that the Council agrees, or agrees with amendment, with the recommendations contained in the report.

(4) The amendments to the rules as approved by the Council shall come into force on such date as the Chairman of the Council may appoint.

CHAPTER XX

COMMUNICATIONS BETWEEN THE PRESIDENT AND THE COUNCIL

Communications from the President to the Council.

221. Communications from the President to the Council shall be made to the Chairman by written message signed by the President or, if the President is absent from the place of meeting of the Council his message shall be conveyed to the Chairman through a Minister.

Communications from the Council to the President.

222. Communications from the Council to the President shall be made—

(1) by formal address, after motion made and carried in the Council, and

(2) through the Chairman.

CHAPTER XXI

GENERAL RULES OF PROCEDURE

Notices

Notices by Members.

223. (1) Every notice required by the rules shall be given in writing addressed to the Secretary, and signed by the member giving notice, and shall be left at the Council Notice Office which shall be open for this purpose between the hours to be notified from time to time on every day except Sunday or a public holiday.

(2) Notices left when the office is closed shall be treated as given on the next open day.

Circulation of notices and papers to Members.

224. (1) The Secretary shall make every effort to circulate to each member a copy of every notice or other paper which is by these rules required to be made available for the use of members.

(2) A notice or other paper shall be deemed to have been made available for the use of every member if a copy thereof is deposited in such manner and in such place as the Chairman may, from time to time, direct.

Lapse of pending notices on prorogation of a Session.

225. On the prorogation of a Session, all pending notices, other than notices of intention to move for leave to introduce a Bill, shall lapse and fresh notice must be given for the next Session:

Provided that fresh notice shall be necessary of intention to move for leave to introduce any Bill in respect of which sanction or recommendation has been granted under the Constitution, if the sanction or recommendation, as the case may be has ceased to be operative.

Business before Committee not to lapse on prorogation of Council.

226. Any business pending before a Committe shall not lapse by reason only of the prorogation of the Council and the Committee shall continue to function notwithstanding such prorogation.

Power of Chairman to amend a notice.

227. If in the opinion of the Chairman, any notice contains words, phrases or expressions which are argumentative, unparliamentary, ironical, irrelevant, verbose, or otherwise inappropriate, he may in his discretion amend such notice before it is circulated.

Motions

Repetition of motion.

228. A motion must not raise a question substantially identical with one on which the Council has given a decision in the same Session.

Withdrawal of motion.

229. (1) A member who has made a motion may withdraw the same by leave of the Council.

(2) The leave shall be signified not upon question but by the Chairman taking the pleasure of the Council. The Chairman shall ask. "Is it your pleasure that the motion be withdrawn ?" If no one dissents, the Chairman shall say: "The motion is by leave withdrawn." But if any dissentient voice be heard or a member rises to continue the debate, the Chairman shall forthwith put the motion :

Provided that if an amendment has been proposed to a motion, the original motion shall not be withdrawn until the amendment has been disposed of.

Dilatory motion.

230. (1) At any time after a motion has been made, a member may move that the debate on the motion be adjourned.

(2) If the Chairman is of opinion that a motion for the adjournment of a debate is an abuse of the rules of the Council, he may either forthwith put the question thereon from the Chair or decline to propose the question.

Amendments

Scope of amendments.

231. (1) An amendment shall be relevant to, and within the scope of, the motion to which it is proposed.

(2) An amendment shall not be moved which has merely the effect of a negative vote.

(3) An amendment on a question shall not be inconsistent with a previous decision on the same question.

Notice of amendments.

232. Notice of an amendment to a motion shall be given at least one day before the day on which the motion is to be considered, unless the Chairman allows the amendment to be moved without such notice.

Selection of amendments.

233. (1) The Chairman may refuse to put an amendment which is in his opinion frivolous or meaningless.

(2) In respect of any motion, the Chairman shall have power to select the amendments to be proposed, and may, if he thinks fit, call upon any member who has given notice of an amendment to give such explanation of the object of the amendment as may enable him to form a judgement upon it.

Terms of the communication for conveying recommendation or previous sanction of the President

234. Every recommendation or previous sanction by the President shall be communicated by a Minister in the following terms :—

Recommendation or previous sanction, how communicated.

"The President having been informed of the subject matter of the proposed Bill, Motion, Resolution or amendment accords his previous sanction to the introduction of the Bill or the moving of the amendment or recommends the introduction of the Bill or the moving of the Motion, Resolution or amendment in the Council or recommends to the Council the consideration of the Bill."

and it shall be printed in the proceedings ot the Council in such manner as the Chairman may direct.

Rules to be observed by Members

Rules to be observed by members while present in the Council.

235. Whilst the Council is sitting, a member—

(i) shall not read any book, newspaper or letter except in connection with the business of the Council;

(ii) shall not interrupt any member while speaking by disorderly expression or noises or in any other disorderly manner;

(iii) shall bow to the Chair while entering or leaving the Council, and also when taking or leaving his seat;

(iv) shall not pass between the Chair and any member who is speaking;

(v) shall not leave the Council when the Chairman is addressing the Council;

(vi) shall always address the Chair;

(vii) shall keep to his usual seat while addressing the Council;

(viii) shall maintain silence when not speaking in the Council;

(ix) shall not obstruct proceedings, hiss or interrupt and avoid making running commentaries when speeches are being made in the Council

236. When a member rises to speak, his name shall be called by the Chairman. If more members than one rise at the same time, the member whose name is so called shall be entitled to speak.

Member to speak when called by Chairman.

237. A member desiring to make any observations on any matter before the Council shall speak from his place, shall rise when he speaks and shall address the Chairman:

Mode of addressing the Council.

Provided that a member disabled by sickness or infirmity may be permitted to speak sitting.

Rules to be observed while speaking.

238. A member while speaking shall not—

(i) refer to any matter of fact on which a judicial decision is pending;

(ii) make a personal charge against a member;

(iii) use offensive expressions about the conduct or proceedings of the Houses or any State Legislature;

(iv) reflect on any determination of the Council except on a motion for rescinding it ;

(v) reflect upon the conduct of persons in high authority unless the discussion is based on a substantive motion drawn in proper terms;

Explanation.—The words "persons in high authority" mean persons whose conduct can only be discussed on a substantive motion drawn in proper terms under the Constitution or such other persons whose conduct, in the opinion of the Chairman, should be discussed on a substantive motion drawn in terms to be approved by him;

(vi) use the President's name for the purpose of influencing the debate;

(vii) utter treasonable, seditious or defamatory words;

(viii) use his right of speech for the purpose of obstructing the business of the Council.

Questions to be asked through the Chairman.

239. When, for the purposes of explanation during discussion or for any other sufficient reason, any member has occasion to ask a question of another member on any matter then under the consideration of the Council, he shall ask the question through the Chairman.

Irrelevance or repetition.

240. The Chairman, after having called the attention of the Council to the conduct of a member who persists in irrelevance or in tedious repetition either of his own arguments or of the arguments used by other members in debate, may direct him to discontinue his speech.

Personal explanation.

241. A member may, with the permission of the Chairman, make a personal explanation although there is no question before the Council, but in this case no debatable matter may be brought forward, and no debate shall arise.

Orders of speeches and right of reply

Orders of speeches and right of reply.

242. (1) After the member who moves has spoken other members may speak to the motion in such order as the Chairman may call upon them. If any member who is so called upon does not speak, he shall not be entitled, except by the permission of the Chairman, to speak to the motion at any later stage of the debate.

(2) Except in the exercise of a right of reply or as otherwise provided by these rules, no member shall speak more than once to any motion, except with the permission of the Chairman.

(3) A member who has moved a motion may speak again by way of reply, and if the motion is moved by a private member, the Minister concerned may, with the permission of the Chairman, speak (whether he has previously spoken in the debate or not) after the mover has replied:

Provided that nothing in this sub-rule shall be deemed to give any right of reply to the mover of an amendment to a Bill or a resolution, save with the permission of the Chairman.

Procedure when Chairman rises

Procedure when Chairman rises.

243. (1) Whenever the Chairman rises he shall be heard in silence and any member who is then speaking or offering to speak shall immediately sit down.

(2) No member shall leave his seat while the Chairman is addressing the Council.

Closure

Closure.

244. (1) At any time after a motion has been made, any member may move, "That the question be now put", and, unless it appears to the Chairman that the motion is an abuse of these rules or an infringement of the right of reasonable debate, the Chairman shall then put the motion: "That the question be now put".

(2) Where the motion: "That the question be now put" has been carried, the question or questions consequent thereon shall be put forthwith without further debate:

Provided that the Chairman may allow any member any right of reply which he may have under these rules

Limitation of debate.

245. (1) Whenever the debate on any motion in connection with a Bill or on any other motion becomes unduly protracted, the Chairman may, after taking the sense of the Council, fix the hour at which the debate shall conclude.

(2) The Chairman shall at such appointed hour, unless the debate be sooner concluded, proceed forthwith to put all such questions as may be necessary to determine the decision of the Council on the original question.

Question for decision

Procedure for obtaining decision of the Council.

246. A matter requiring the decision of the Council shall be decided by means of a question put by the Chairman on a motion made by a member.

Proposal and putting of question.

247. When a motion has been made, the Chairman shall propose the question for the consideration, and put it for the decision, of the Council. If a motion embodies two or more separate propositions, those propositions may be proposed by the Chairman as separate questions.

No speech after voices collected.

248. A member shall not speak on a question after the Chairman has collected the voices both of the Ayes and of the Noes on that question.

Papers quoted to be laid on the Table

Papers quoted to be laid on the Table.

249. If a Minister quotes in the Council a despatch or other State Paper which has not been presented to the Council, he shall lay the relevant paper on the Table:

Provided that this rule shall not apply to any documents which are stated by the Minister to be of such a nature that their production would be inconsistent with public interest:

Provided further that where a Minister gives in his own words a summary or gist of such despatch or State Paper it shall not be necessary to lay the relevant papers on the Table.

Papers laid on the Table to be public.

250. All papers and documents laid on the Table shall be considered public.

Statement by a Minister

Statement by a Minister.

251. A statement may be made by a Minister on a matter of public importance with the consent of the Chairman but no question shall be asked at the time the statement is made.

Division

Division.

252. (1) On the conclusion of a debate, the Chairman shall put the question and invite those who are in favour of the motion to say "Aye" and those against the motion to say "No".

(2) The Chairman shall then say: "I think the Ayes (or the Noes, as the case may be) have it". If the opinion of the Chairman as to the decision of a question is not challenged, he shall say twice: "The Ayes (or the Noes, as the case may be) have it" and the question before the Council shall be determined accordingly.

(3) If the opinion of the Chairman as to the decision of a question is challenged, he may, if he thinks fit, ask the members who are for "Aye" and those for "No" respectively to rise in their places and, on a count being taken, he may declare the determination of the Council. In such a case, the names of the voters shall not be recorded.

(4) (a) If the opinion of the Chairman as to the decision of a question is challenged and he does not adopt the course provided for in sub-rule (3) above, he shall order a "Division" to be held.

(b) After the lapse of two minutes, he shall put the question a second time and declare whether in his opinion the "Ayes" or the "Noes" have it.

(c) If the opinion so declared is again challenged, votes shall be taken by operating the automatic vote recorder or by the members going into the Lobbies.

Division by operating automatic vote recorder.

253. (1) If the opinion declared under clause (b) of sub-rule (4) of rule 252 is challenged and the Chairman decides that the votes shall be taken by operating the automatic vote recorder, he shall direct that the votes be recorded and thereupon vote recorder shall be put into operation and the members shall cast their votes from the seats respectively allotted to them by pressing the buttons provided for the purpose.

(2) After the result of the voting appaars no the indicator board, the Secretary shall present the totals of "Ayes" and "Noes" to the Chairman.

(3) The result of a Division shall be announced by the Chairman and shall not be challenged.

(4) A member who is not able to cast his vote by pressing the button provided for the purpose due to any reason considered sufficient by the Chairman, may, with the permission of the Chairman, have his vote recorded verbally by stating whether he is in favour of or against the motion.

(5) If a member finds that he has voted by mistake by pressing the wrong button, he may be allowed to correct his mistake provided he brings it to the notice of the Chairman before the result of the division is announced.

Division by going into the Lobbies.

254. (1) If the opinion declared under clause (b) of sub-rule (4) of rule 252 is challenged and the Chairman decides that the votes shall be recorded by the members going into the Lobbies, he shall direct the "Ayes" to go into the Right Lobby and the "Noes" into the Left Lobby. In the "Ayes" or "Noes" Lobby, as the case may be, each member shall call out his Division Number and the Division Clerk, while marking off his number on the Division List, shall simultaneously call out the name of the member.

(2) After voting in the Lobbies is completed, the Division Clerks shall hand over the Division Lists to the Secretary, who shall count the votes and present the totals of "Ayes" and "Noes" to the Chairman.

(3) The result of a division shall be announced by the Chairman and shall not be challenged.

(4) A member who is unable to go to the Division Lobby owing to sickness or infirmity may, with the permission of the Chairman, have his vote recorded either at his seat or in the Members' Lobby.

(5) If a member finds that he has voted by mistake in the wrong Lobby, he may be allowed to correct his mistake provided he brings it to the notice of the Chairman before the result of the Division in announced.

(6) When the Division Clerks have brought the Division Lists to the Secretary's table, a member who has not up to that time recorded his vote but who then wishes to have his vote recorded may do so with the permission of the Chairman.

Withdrawal and Suspension of Members

Withdrawal of a member.

255. The Chairman may direct any member whose conduct is in his opinion grossly disorderly to withdraw immediately from the Council, and any member so ordered to withdraw shall do so forthwith and shall absent himself during the remainder of the day's meeting.

Suspension of a member.

256. (1) The Chairman may, if he deems it necessary, name a member who disregards the authority of the Chair or abuses the rules of the Council by persistently and wilfully obstructing the business thereof.

(2) If a member is so named by the Chairman, he shall forthwith put the question on a motion being made, no amendment, adjournment or debate being allowed, that the member (naming him) be suspended from the service of the Council for a period not exceeding during the remainder of the session:

Provided that the Council may, at any time, on a motion being made, resolve that such suspension be terminated.

(3) A member suspended under this rule shall forthwith quit the precincts of the Council.

Suspension of sitting

Power of Chairman to adjourn Council or suspend sitting.

257. In the case of grave disorder arising in the Council, the Chairman may, if he thinks it necessary to do so, adjourn the Council or suspend any sitting for a time to be named by him.

Points of Order

Points of order and decisions thereon.

258. (1) Any member may at any time submit a point of order for the decision of the Chairman, but, in doing so, shall confine himself to stating the point.

(2) The Chairman shall decide all points of order which may arise, and his decision shall be final.

Maintenance of Order

Chairman to preserve order and enforce decisions.

259. The Chairman shall preserve order and shall have all powers necessary for the purpose of enforcing his decisions.

Report of Proceedings

Report of proceedings of Council.

260. The Secretary shall cause to be prepared a full report of the proceedings of the Council at each of its meetings, and shall as soon as practicable, publish it in such form and manner as the Chairman may, from time to time, direct.

261. If the Chairman is of opinion that a word or words has or have been used in debate which is or are defamatory or indecent or unparliamentary or undignified, he may, in his discretion, order that such word or words be expunged from the proceedings of the Council.

Expunging of words from debates.

262. The portion of the proceedings of the Council so expunged shall be indicated by asterisks and an explanatory footnote shall be inserted in the proceedings as follows:

"Expunged as ordered by the Chair."

Indication in printed debates of expunged proceedings.

Admission of Officers of the House

263. Any officer of the Secretarial staff of the House shall be entitled to admission to the Council Chamber during any sitting of the Council.

Officers of the House entitled to admission to a sitting of the Council.

Admission of Strangers

264. The admission of strangers during the sittings of the Council to those portions of the Council which are not reserved for the exclusive use of members shall be regulated in accordance with orders made by the Chairman.

Admission of strangers.

265. The Chairman, whenever he thinks fit, may order the withdrawal of strangers from any part of the Council.

Withdrawal of strangers.

Residuary Powers

266. All matters not specifically provided in these rules and all questions relating to the detailed working of these rules shall be regulated in such manner as the Chairman may, from time to time, direct.

Residuary powers.

Suspension of Rules

267. Any member may, with the consent of the Chairman move that any rule may be suspended in its application to a particular motion before the Council and if the motion is carried for the time being.

Suspension of Rules.

SCHEDULE

FORM OF PETITION

(*See* rule 139)

To

THE COUNCIL OF STATES (RAJYA SABHA)

The petition of

(Here insert name and designation or description of petitioner(s) in concise form e.g., *"A.B. and others" or "the inhabitants of..... ....." or "the municipality of....." etc.)*

sheweth

(Here insert concise statement of Case)

and accordingly your petitioners pray that

(Here insert "that the Bill be or be not proceeded with", or "that special provision be made in the Bill to meet the case of your petitioner(s)" or any other appropriate prayer regarding the Bill or matter pending before the Council or a matter of general public interest).

Name of petitioner	Address	Signature or thumb impression

Countersignature of Member presenting.

XVII. ARTICLE 118(3).

THE HOUSES OF PARLIAMENT (JOINT SITTINGS AND COMMUNICATIONS) RULES

CHAPTER I—PRELIMINARY

Short title.

1. These Rules may be called the Houses of Parliament (Joint Sittings and Communications) Rules,

Definitions.

2. In these Rules, unless the context otherwise requires,—

(*a*) "Council" means the Council of States;

(*b*) "House" means the House of the People:

(*c*) "Houses" means the Council of States and the House of the People;

(*d*) "Joint Sitting" means a joint sitting of the Houses;

(*e*) "Member" means a member of the Council or of the House;

(*f*) "Secretary" means the Secretary of the House and includes any person for the time being performing the duties of the Secretary of the House;

(*g*) "Speaker" means the Speaker of the House.

CHAPTER II

JOINT SITTINGS OF THE HOUSES

Summons to Members.

3. The Secretary shall issue a summons to each member specifying the time and place for a joint sitting.

Time of sitting.

4. The hour upon which a joint sitting shall adjourn and the day and hour or the part of the same day to which it shall be adjourned shall be determined by the Speaker.

Presiding Officers.

5. During the absence of the Speaker from any joint sitting, the Deputy Speaker of the House or, if he is also absent, the Deputy Chairman of the Council or, if he is also absent such other person as may be determined by the Members present at the sitting, shall preside.

Quorum.

6. The quorum to constitute a joint sitting shall be one-tenth of the total number of Members of the House.

Procedure.

7. At any joint sitting the procedure of the House shall apply with such modifications and variations as the Speaker may consider necessary or appropriate.

Report of proceedings of joint sittings.

8. The Secretary shall cause to be prepared a full report of the proceedings of every joint sitting, and shall, as soon as practicable, publish it in such form and manner as the Speaker may, from time to time, direct.

CHAPTER III

COMMUNICATIONS BETWEEN HOUSES

Communication by messages.

9. Communications between the Houses shall be by messages.

Mode of sending messages.

10. Every message from the House to the Council or from the Council to the House shall be in writing or in print or partly in writing and partly in print and shall be signed by the Secretary of the House or the Council and conveyed to the Secretary of the Council or House, as the case may be.

Communication of messages to Members.

11. (1) If any such message is received by the Secretary of the House or the Council when it is in session, he shall report the message to the House or the Council, as the case may be, at the first convenient opportunity after its receipt.

(2) Whenever the House or the Council to which a message is sent is not in session, a copy of the message shall, as soon as it is received by the Secretary of the House or the Council, be forwarded by him to every Member of the House or the Council, as the case may be.

Procedure to deal with the subject matter of the message,

12. The subject matter of the message shall be dealt with by the House or the Council, as the case may be, to which the message is sent according to the rules regulating its procedure and the conduct for its business.

XVIII. ARTICLE 124(1).

THE SUPREME COURT (NUMBER OF JUDGES) ACT, 1956 (ACT NO. 55 OF 1956)

An Act to provided for an increase in the number of Judges of the Supreme Court, excluding the Chief Justice.

[*16th September, 1956*]

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows :—

Short title.

1. This Act may be called the Supreme Court (Number of Judges) Act, 1956.

Maximum number of Supreme Court Judges, other than Chief Justice.

2. The maximum number of Judges of the Supreme Court, excluding the Chief Justice of India, shall be *thirteen.*[1]

XIX. ARTICLE 125(2).

1. THE SUPREME COURT JUDGES (CONDITIONS OF SERVICE) ACT, 1958 (ACT NO. 41 OF 1958)

An Act to regulate certain conditions of service of the Judges of the Supreme Court

[*17th October, 1958*]

BE it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title.

1. This Act may be called the Supreme Court Judges (Conditions of Service) Act, 1958.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "acting Chief Justice" means a Judge appointed under article 126 of the Constitution to perform the duties of the Chief Justice of India;

1. Substituted for the word 'ten' by the Supreme Court (Number of Judges) Act, 1960.

(*b*) "actual service" includes—

(*i*) time spent by a Judge on duty as a Judge, or in the performance of such other functions as he may, at the request of the President, undertake to discharge; and

(*ii*) vacations;

(*c*) "Chief Justice" means the Chief Justice of India, but does not include an acting Chief Justice;

(*d*) "High Court" means the High Court for a State;

(*e*) "Judge" means a Judge of the Supreme Court and includes the Chief Justice and an acting Chief Justice;

(*f*) "prescribed" means prescribed by rules made under this Act;

(*g*) "service as a Judge in India" means service rendered either in the Federal Court or in the Supreme Court or in any such Court and in one or more of the High Courts, and "Judge in India" and "service for pension as a Judge in India" shall be construed accordingly;

(*h*) "service for pension" includes—

(*i*) actual service;

(*ii*) time spent by a Judge of a High Court in attending the sittings of the Supreme Court as an *ad hoc* Judge under article 127 of the Constitution, if he is subsequently appointed as a Judge;

(*iii*) forty-five days or the amount actually taken, whichever is less, of each period of leave on full allowances;

(*i*) "vacation" means such period or periods during a year as may be fixed as vacation by or under the rules of the Supreme Court made with the prior approval of the President.

CHAPTER II

LEAVE

Kinds of leave admissible to a Judge.

3. (*1*) Subject to the provisions of this Act, leave granted to a Judge may be at his option either—

(*a*) leave on full allowances; or

(*b*) leave on half allowances; or

(*c*) leave partly on full allowances and partly on half allowances.

(*2*) For the purposes of this Chapter, any period of leave on full allowances shall be reckoned as double that period of leave on half allowances.

Leave account showing the amount of leave due.

4. (*1*) A leave account shall be kept for each Judge showing therein the amount of leave due to him in terms of leave on half allowances.

(2) In the leave account of a Judge—

(*a*) there shall be credited to him—

(*i*) one-fourth of the time spent by him on actual service; and

(*ii*) where the Judge, by reason of his having been detained for the performance of duties not connected with the Supreme Court, cannot enjoy any vacation which he would otherwise have been entitled to enjoy had he not been so detained, as compensation for the vacation not enjoyed, a period equal to double the period by which the vacation enjoyed by him in any year falls short of one month; and

(*b*) there shall be debited to him all leave with allowances taken by him.

(*3*) This section shall be deemed to have come into force on the 1st day of May, 1958.

Aggregate amount of leave which may be granted.

5. (*1*) The aggregate amount of leave which may be granted to a Judge during the whole period of his service as such shall not exceed in terms of leave on half allowances three years together with the aggregate of the periods, if any, credited to his leave account under sub-section (*2*) (*a*) (*ii*) of section 4 as compensation for vacation not enjoyed.

(*2*) The aggregate amount of leave on full allowances which may be granted to a Judge during the whole period of his service as such shall not exceed one-twenty-fourth of the period spent by him on actual service together with one-half of the aggregate periods, if any, credited to his leave account under sub-section (*2*) (*a*) (*ii*) of section 4 as compensation for vacation not enjoyed.

(3) The maximum period of leave which may be granted at one time shall be, in the case of leave on full allowances, five months and in the case of leave with allowances of any kind, sixteen months.

Grant of leave not due.

6. Subject to the maximum limit specified in sub-section (*1*) of section 5, leave on half allowances may be granted to a Judge in excess of the amount at his credit—

(*i*) on medical certificate ; or

(*ii*) otherwise than on medical certificate, for a period not exceeding six months, or for two or more periods not exceeding in the aggregate six months, during the whole period of his service as a Judge:

Provided that no such leave shall be granted if the Judge is not expected to return to duty at the end of such leave and earn the leave granted.

Special disability leave.

7. Special disability leave may be granted to a Judge under such circumstances, on such allowances and for such periods as may be prescribed.

Extra-ordinary leave.

8. Extraordinary leave may be granted to a Judge for a period not exceeding six months, or for two or more periods not exceeding in the aggregate six months, during the whole period of his service as a Judge in excess of any leave permissible under the foregoing provisions of this Chapter, but no salary or allowances shall be payable in respect of such leave.

Leave allowances.

9. (*1*) The monthly rate of leave allowances payable to a Judge while on leave on full allowances shall be for the first forty-five days of such leave a rate equal to the monthly rate of the salary and thereafter two thousand two hundred and twenty rupees.

(2) The monthly rate of leave allowances payable to a Judge while on leave on half allowances shall be one thousand one hundred and ten rupees.

Combining leave with vacation.

10. A Judge may be permitted to combine vacation on full salary with leave, if—

(*a*) where the vacation consists of one continuous period, the leave is taken either at the commencement or at the end of the vacation but not at both ;

(*b*) where the vacation is divided into two periods, the leave is taken for the interval, or part of the interval, between the two periods of that vacation, or for the interval, or part of the interval, between the second period of that vacation and the commencement of the next ensuing vacation :

Provided that no such permission to combine vacation with leave shall be granted, if it becomes necessary to appoint an acting Chief Justice during the period of vacation or if the Judge is not expected to return to duty at the end of such leave.

Consequences of overstaying leave or vacation.

11. (*1*) If a Judge overstays his leave or any vacation, whether combined with leave or not, he shall receive no salary in respect of the period of his absence in excess of the leave granted to him or beyond the end of the vacation, as the case may be :

Provided that, if such absence is due to circumstances beyond his control, the period thereof may be treated as leave and may be debited to his leave account.

(2) Nothing in this Act shall be construed as requiring a Judge to rejoin on the expiration of the period of leave when that period expires immediately before the commencement of a vacation, nor as authorising any acting Chief Justice to continue to hold the acting appointment during the vacation.

Authority competent to grant leave.

12. The authority competent to grant or refuse leave to a Judge or to revoke or curtail the leave already granted to a Judge shall be the President who shall exercise the power after consultation with the Chief Justice.

CHAPTER III

PENSIONS

Pension payable to Judges.

13. Subject to the provisions of this Act, a pension shall be payable in accordance with the provisions of Part I of the Schedule to a Judge of the Supreme Court on his retirement if, but only if,—

(*a*) he has completed not less than seven years of service for pension as a Judge in India ; or

(*b*) he has attained the age of sixty-five years ; or

(*c*) his retirement is medically certified to be necessitated by ill-health.

Explanation.—In this section, "Judge" means a Judge who is not a member of the Indian Civil Service or has not held any other pensionable civil post under the Union or a State and includes a person who was in service as a Judge on the 20th May, 1954, and also includes a Judge who being a member of the Indian Civil Service or having held any other pensionable civil post under the Union or a State has elected to receive the pension payable under Part I of the Schedule.

Special provisions for pension in respect of Judges who are members of service.

14. Every Judge—

(*a*) Who is a member of the Indian Civil Service shall, on his retirement, be paid a pension in accordance with the provisions of Part II of the Schedule ;

(*b*) who is not a member of the Indian Civil Service but has held any other pensionable civil post under the Union or a State shall, on his retirement, be paid a pension in accordance with the provisions of Part III of the Schedule :

Provided that every such Judge shall elect to receive the pension payable to him either under Part I of the Schedule or, as the case may be, Part II or Part III of the Schedule, and the pension payable to him shall be calculated accordingly.

Power of President to add to the services for pension

15. The President may, for special reasons, direct that any period not exceeding three months shall be added to the service for pension of a Judge, and any such period so added shall count for pension purposes—

(*a*) in the case of a Judge who has served in the Supreme Court as Chief Justice, as service as Chief Justice ; and

(*b*) in the case of any other Judge, as service as any other Judge.

Extraordinary pension.

16. Extraordinary pensions and gratuities may be granted to a Judge under such circumstances and on such scales as may be prescribed.

Pension payable to a Judge who was in receipt of pension at the time of appointment as such.

17. If, at the time of his appointment to the Supreme Court, a Judge is in receipt of a pension in respect of any previous service either as a Judge of a High Court or in any other pensionable civil post under the Union or a State, the pension payable to him under this Act shall be an additional pension for service in the Supreme Court equal to the difference between his original pension and the pension to which he would have been entitled under this Act, if his service in the Supreme Court had been rendered in continuation of the previous service for which his original pension was granted.

Conversion of sterling pension into rupees.

18. Pensions expressed in sterling only shall, if paid in India, be converted into rupees at such rate of exchange as the Central Government may, from time to time, specify in this behalf.

Commutation of pension.

19. The Civil Pensions (Commutation) Rules for the time being in force shall, with necessary modifications, apply to Judges.

Provident fund.

20. Every Judge shall be entitled to subscribe to the General Provident Fund (Central Services) :

Provided that a Judge who is a member of the Indian Civil Service or has held any other pensionable civil post under the Union or a State shall continue to subscribe to the provident fund to which he was subscribing before his appointment as a Judge :

Provided further that a Judge who was appointed before the commencement of this Act may continue to subscribe to the provident fund to which he was subscribing immediately before such commencement.

Authority competent to to grant pension.

21. Save as may be otherwise expressly provided in the relevant rules relating to the grant of extraordinary pensions and gratuities, the authority competent to grant pension to a Judge under the provisions of this Act shall be the President.

CHAPTER IV

MISCELLANEOUS

Travelling allowance to a Judge.

22. A Judge shall receive such reasonable allowance to reimburse him for expenses incurred in travelling on duty within the territory of India and shall be afforded such reasonable facilities in connection with travelling as may, from time to time, be prescribed.

Facilities for rent-free houses and other conditions of service.

23. (*1*) Every Judge shall be entitled without payment of rent to the use of an official residence in accordance with such rules as may, from time to time, be made in this behalf.

(*2*) Every Judge and the members of his family shall be entitled to such facilities for medical treatment and for accommodation in hospitals as may, from time to time, be prescribed.

(*3*) The conditions of service of a Jndge for which no express provision has been made in this Act shall be such as may be determined by rules made under this Act.

(*4*) This section shall be deemed to have come into force on the 26th day of January, 1950, and any rule made under this section may be made so as to be retrospective to any date not earlier than the commencement of this section.

Power to make rules.

24. (*1*) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) leave of absence of a Judge, including special disability leave ;

(*b*) pension payable to a Judge, including extraordinary pensions and gratuities :

(*c*) travelling allowances to a Judge ;

(*d*) use of official residence by a Judge ;

(*e*) facilities for medical treatment and other conditions of service of a Judge ;

(*f*) any other matter which has to be, or may be, prescribed.

(*3*) All rules made under this section shall, as soon as possible after they are made, be laid for not less than thirty days before each House of Parliament and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.

Savings.

25. Nothing contained in this Act shall have effect so as to give to a Judge who is serving as such at the commencement of this Act less favourable terms in respect of his privileges and allowances or his rights in respect of leave of absence (including leave allowances) or pension than those to which he would have been entitled, if this Act had not been passed.

THE SCHEDULE

(*See* sections 13 and 14.)

PENSIONS OF JUDGES

PART I

1. The provisions of this Part apply to a Judge who is not a member of the Indian Civil Service or has not held any other pensionable civil post under the Union or a State and also apply to a person who was in service as a Judge on the 20th May, 1954, and to a Judge who, being a member of the Indian Civil Service or having held any other pensionable civil post under the Union or a State, has elected to receive the pension payable under this Part.

2. Subject to the provisions of this Part, the pension payable to a Chief Justice to whom this Part applies and who has completed not less than seven years of service for pension as a Judge in India shall be an amount equal to the sum of the following amounts, that is to say,—

(*a*) an amount equal to the pension which would have been payable to him in accordance with the scale and provisions in Part I of the First

Schedule to the High Courts Judges (Conditions of Service) Act, 1954, if his service as a Judge had been rendered as the Chief Justice of a High Court:

(*b*) an additional amount of Rs. 470 per annum for each completed year of service as the Chief Justice of the Supreme Court until he has become entitled to a pension of Rs. 20,000 per annum, and thereafter an additional amount of Rs. 1,200 for each completed year of such service :

Provided that the aggregate amount of his pension shall in no case exceed Rs 26,000 per annum.

(3) The pension payable to any other Judge to whom this Part applies and who has completed not less than seven years of service for pension as a Judge in India shall be an amount equal to the pension which would have been payable to him in accordance with the scale and provisions in Part I of the First Schedule to the High Court Judges (Conditions of Service) Act, 1954, if his service as a Judge had beeen rendered as the Chief Justice of a High Court.

4. If a Judge of the Supreme Court who has served as an acting Chief Justice thereof is subsequently appointed Chief Justice, his service as acting Chief Justice shall, for the purposes of paragraph 2 of this Part, be treated as service as Chief Justice.

5. Where a Judge to whom this Part applies retires without being eligible for a pension under any other provision of this Part, then, notwithstanding anything contained in the foregoing provisions, a pension of Rs. 7,500 per annum shall be payable to such a Judge:

Provided that nothing in this paragraph shall apply to a Judge who at the time of his appointment is in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Union or a State.

PART II

1. The provisions of this Part apply to a Judge who is a member of the Indian Civil Service and who has not elected to receive the pension payable under Part I.

2. The pension payable to such a Judge shall be—

(*a*) the pension to which he is entitled under the ordinary rules of the Indian Civil Service if he had not been appointed a Judge, his service as a Judge in India being treated as service therein, and

(*b*) an additional pension of Rs. 1,400 per annum for each completed year of service for pension in the Supreme Court:

Provided that the aggregate amount of his pension shall in no case exceed Rs. 20,000 per annum.

PART III

1. The provisions of this Part apply to a Judge who has held any pensionable civil post under the Union or a State (but is not a member of the Indian Civil Service) and who has not elected to receive the pension payable under Part I.

2. The pension payable to such a Judge shall be—

(*a*) the pension to which he is entitled under the ordinary rules of his service if he had not been appointed a Judge, his service as a Judge in India being treated as service therein for the purpose of calculating that pension; and

(*b*) a special additional pension of Rs. 500 per annum in respect of each completed year of service for pension as a Judge in India bur in no case such additional pension together with the additional or special pension, if any, to which he is entitled under the ordinary rules of his service shall exceed Rs. 2,500 per annum.

2. THE SUPREME COURT JUDGES (TRAVELLING ALLOWANCE) RULES, 1951.

S.R.O. 621, dated the 30th April, 1951.—In pursuance of article 125 of, and sub-paragraph (4) of paragraph 9 of Part D of the Second Sehedule to, the Constitution, the President is pleased to make the following rules, namely:-

1. (i) These rules may be called the Supreme Court Judges (Travelling Allowance) Rules, 1951.

(ii) They shall be deemed to have come into force on the 26th January, 1950.

2. In these rules unless the context otherwise requires 'Judge' means a Judge of the Supreme Court and includes the Chief Justice, an acting Chief Justice and Judge appointed under article 128 of the Constitution.

3. When a Judge of a High Court is appointed to be a Judge of the Supreme Court, he is entitled in respect of his journey to join his new post to draw travelling allowance at the rates and to enjoy travelling facilities specified in rule 7 of the High Court Judges (Part A States) Travelling Allowance Rules, 1950.

4. (i) When a Government servant, appointed to be a Judge, travels by railway to join his post, he may, at his option and in lieu of drawing travelling allowance under the rule governing a journey on transfer applicable to him, travel in a reserved first class compartment.

(ii) A Government servant who avails himself of this concession must pay to Government the fare which he would have paid if no accommodation had been reserved and must, in addition, pay in cash to the station master of the Station from which the journey commences, the fares for any members of his family accompanying him, whether they share his reserved accommodation or not. When Government pays full tariff rates for the accommodation, all such fares shall be credited to Government.

5. When a person not already in Government service is appointed to be a Judge, he may, when travelling by railaway to join his post, travel in a reserved first class compartment on the conditions prescribed in sub-rule (ii) of rule 4 :

Provided that, if any such person is appointed to be the Chief Justice, be may travel in an inspection carriage.

6. When a person, who has held the office of a Judge of the Supreme Court or of the Federal Court, is requested to sit and act as a Judge of the Supreme Court under article 128 of the Constitution he may, when travelling by railway to join his temporary post or on vacating it, travel in a reserved first class compartment subject to the conditions presrcribed in sub-rule (2) of rule 7.

7. (1) When a Judge travels on duty, he is entitled:—

(a) when travelling by railway, to one reserved first class compartment and the fares at the lowest class rates actually paid for servants not exceeding four in number:

Provided that the Chief Justice or an acting Chief Justice will, if he so chooses, be ordinarily provided with an inspection carriage, in which case however, the Chief Justice or the acting Chief Justice shall not be entitled to any fares for the servants;

(b) when travelling by a public air transport services, to the fare paid for himself and, if actually paid, the cost of transporting up to two maunds of luggage by rail at passenger rates, or steamer and the railway or steamer fares of the lowest class for servants not exceeding four in number, and the expenditure actually incurred on the transport by road of servants or luggage up to a maximum

1. Gaz. of India, Pt. II, s. 8, p. 642.

of 8 annas per mile of that part of the journey by road for which no allowance is claimed under clause (c) of this sub-rule;

(c) when travelling by road, to an allowance at the rate of one rupee per mile:

Provided that no such allowance shall be payable in respect of that portion of a journey by road for which a public air transport service provides its own transport and the fare for which journey is included in the air fare paid under clause (b) for the air journey;

(d) to a travelling allowance limited to the actual expenses incurred by the Judge not exceeding one-half of first class railway fare in the case of rail journeys:

Provided that no such allowance shall be admissible where the Chief Justice or an acting Chief Justice travels in an inspection carriage;

(e) to a daily allowance in respect of any period of halt on duty outside Delhi or such other place as may for the time being be the headquarters of the Supreme Court (including Sundays and other holidays) at the following rates, namely:—

(i) in the case of the Chief Justice or an acting Chief Justice, at the rate of Rs. 15, if the Chief Justice or the acting Chief Justice stays in an inspection carriage, and at the rate of Rs. 25, if he stays in any hotel or other place;

(ii) in the case of a Judge, at the rate of Rs. 15 ;

(f) to the expenditnre, if any actually incurred on the transport by passenger train or steamer at owner's risk of a motor car, and the fare at the lowest class rate actually paid to a railway or steamer service in respect of one driver or cleaner for the car ;

(g) to the actual freight paid for the transport of personal effects not exceeding the freight chargeable for transporting by goods train personal effects weighing 60 maunds ;

Provided that no freight shall be payable for any personal effects which are capable of being carried in an inspection carriage.

(2) If any persons (other than servants) accompany a Judge in the accommodation reserved for him under sub-rule (1), fares shall be payable by him on their account, and the fares so paid shall, if full tariff rates have been paid by Government for the reserved accommodation, be credited to Government.

(3) For the purpose of sub-rule (1) of this rule—

(a) all journeys to and from headquarters shall be deemed to commence and terminate at the Judge's residence at headquarters or as the case may be, at an out-station. For short journeys by road within five miles of the Judge's residence at headquarters no mileage allowance will be admissible unless the Judge actually proceeds to a place outside the five-mile radius. At an outstation, no mileage allowance in addition to a daily allowance to which a Judge may be entitled, will be admissible for short road journeys within five miles of the Judge's temporary residence;

(b) "actual expenses" mean the ordinary and normal expenses incidental to the journey and include any charge for a ferry, payment of tolls, amount spent on transport of camp equipment but do not include such other charges as hotel charges, rent for occupying a traveller's bungalow, cost of refreshments, charges for carriage of stores or conveyance or presents to coachmen or tips to bearers or any other allowance for such incidental losses or expenses as the breakage of

crockery, wear and tear of furniture and the employment of additional servants;

(c) when the period of halt during the day (a day being counted from midnight to midnight) is not less than six hours, it shall count as one day and if it is less than six hours, it shall count as half day;

(d) when the period of continuous halt at any place exceeds ten days, but does not exceed thirty days, daily allowance shall be admissible at full rate for the first ten days and at three-fourths of the rates for any subsequent days.

8. (1) When a Judge—

(a) proceeds on, or returns from, leave, or

(b) proceeds on, or returns from vacation spent in or outside India, or

(c) retires from service, or

(d) proceeds to join another post after resigning office, he may, when travelling in a railway, travel in a reserved first class compartment subject to the conditions prescribed in[1][clause (11) of rule 4]:

Provided that the Chief Justice may travel in an inspection carriage, if one is available.

(2) The facilities provided under this rule will be available up to and from the place of embarkation or disembarkation or the place where the Judge ordinarily resides in India, as the case may be.

XX. ARTICLE 142 (1).

THE SUPREME COURT (DECREES AND ORDERS) ENFORCEMENT ORDER, 1954.[1]

C. O. 14.—In exercise of the powers conferred by clause (1) of article 142 of the Constitution of India and of all other powers enabling him in that behalf, the President is pleased to make the following Order, namely ;—

1. (1) This Order may be called the Supreme Court (Decrees and Orders) Enforcement Order, 1950.

(2) It shall come into force at once.

2. Notwithstanding anything contained in any other law in force at the commencement of this Order, any decree passed or order made by the Supreme Court in the exercise of its appellate jurisdiction, including any order as to the costs of, and incidental to, any proceedings in the exercise of such jurisdiction, whether such decree or order was passed or made before or after the commencement of this Order, shall be enforceable in accordance with the provisions of law for the time being in force relating to the enforcement of decrees or orders of the Court or Tribunal from which the appeal to the Supreme Court was preferred or sought to be preferred.

XXI. ARTICLE 145 (1).

THE SUPREME COURT RULES 1950.[1]

The Supreme Court of India, in the exercise of its rule-making powers, and with the approval of the President, hereby makes the following rules :-

1. Subs. by S.R.O. 820, dated the 9th March, 1954 for "sub-rule (2) of rule 7".

1. Gaz. of India Extraordinary, 1954, Pt. II, s. 8, p. 75.

1. As amended up to date.

PART I—General

ORDER I

Interpretation, etc.

1. These Rules may be cited as the Supreme Court Rules, 1950, and shall be deemed to have come into operation on the twenty-sixth day of January, 1950.

2. (1) In these Rules, unless the context otherwise requires—

'Advocate' means a person whose name is entered on the Common Roll maintained under section 20 of the Advocates Act, 1961.

'Chief Justice' means the Chief Justice of India and includes a Judge appointed under Article 126 of the Constitution to perform the duties of the Chief Justice.

'Court appealed from' includes a tribunal and any other judicial body from which an appeal is preferred to the Court ;

'Deputy Registrar' means the Deputy Registrar, Judicial, of the Court.

'Party' and all words descriptive of parties to proceedings before the Court (as 'appellant', 'petitioner', 'respondent', 'plaintiff', 'defendant' and the like) include, in respect of all acts proper to be done by an Advocate on Record the Advocate on record of the party in question, where such party is represented by an Advocate on Record.

'The Rules' and 'Rules of Court' mean these Rules and include the froms appended to these Rules ;

'Senior Advocate' means any advocate so designated under section 16 (2) of the Advocates Act, 1961, and all such Advocates whose names were borne on the Roll of the Senior Advocates of the Supreme Court immediately before the commencement of Chapter III of the Advocates Act, 1961, and

'Taxing Officer' is the officer of the Court whose duty it is to tax costs of proceedings in the Court.

(2) The General Clauses Act, 1897, applies for the interpretation of these Rules as it applies for the interpretation of an Act of Parliament.

(3) Where by these Rules or by any order of the Court, any step is required to be taken in connection with any cause, matter or appeal before the Court, that step shall, unless the context otherwise requires, be taken in the Registry.

(4) Where any particular number of days is prescribed by these Rules, the same shall be reckoned exclusively of the first day and inclusively of the last day, unless the last day s hall happen to fall on a day on which the offices of the Court are closed, in which case the time shall be reckoned exclusively of that day also and of any succeeding day or days on which the offices of the Court continue to be closed.

ORDER II

Offices of the Court : Sittings and Vacation, etc.

1. The offices of the Court, except during vacation and on Saturdays and holidays, shall, subject to any order by the Chief Justice, be open daily from 10 a.m, to 4-30 p.m., but no work, unless of an urgent nature, shall be admitted after 4 p.m.

2. The offices of the Court shall, except during vacation, be open on Saturdays from 10-30 a.m. to 1-30 p,m., but no work, unless of an urgent nature, shall be admitted after 12-30.

3. The offices of the Court shall be open during vacation, except on Saturdays and holidays, at such times as the Chief Justice may direct.

4. The Court shall sit in two terms annually, the first commencing from the seventh day of January and ending on the last Friday in May and the second commencing from the second Monday in September and ending on the 23rd December.

5. The Court shall not ordinarily sit on Saturdays, nor on any other days notified as Court holidays in the *Gazete of India*.

6. The Chief Justice may appoint one or more Judges to hear during each summer vacation all matters of an urgent nature which under these Rules may be heard by Judge sitting singly, and whenever necessary, he may likewise appoint a Division Court for the hearing of urgent cases during the vacation which require to be heard by a Bench of Judges.

7. (1) The Registrar shall keep a list of all cases pending before the Court, and shall, at the commencement of each term, prepare and publish on the Court Notice Board a list of all cases ready for hearing in each class separately, to be called the ready list. The cases in the ready list shall be arranged yearwise in each class separately in the order of their registration, and the list shall be added to from time to time as and when fresh case become ready for hearing.

(2) Out of the ready list, the Registrar shall settle and publish on the Court Notice Board at the end of each month, a list of cases to be heard during the following month. Subject to any general or special directions that may be given by the Chief Justice and subject to the orders of the Court and the other provisions in these Rules the cases listed for hearing in the monthly list in each class shall be in the order in which the cases have been registered. From out of the monthly list, the Registrar shall settle and publish at the end of each week a list of cases to be heard in the following week, as far as posible, in the order in which they appear in the monthly list, subject to the directions of the Chief Justice and of the Court, if any, and out of the weekly list shall publish at the end of each day a daily list of cases to be heard by the Court on the following day.

ORDER III

OFFICERS OF THE COURT, ETC.

1. The Registrar shall have the custody of the records of the Court and shall exercise such other functions as are assigned to him by these Rules.

2. The Chief Justice may assign, and the Registrar may with the approval of the Chief Justice delegate, to a Deputy Registrar or Assistant Registrar any functions required by these Rules to be exercised by the Registrar.

3. In the absence of the Registrar, the Deputy Registrar may exercise all the functions of the Registrar.

4. The official Seal to be used in the Court shall be such as the Chief Justice may from time to time direct, and shall be kept in the custody of the Registrar.

5. Subject to any general or special directions given by the Chief Justice the Seal of the Court shall not be affixed to any writ, rule, order, summons or other process save under the authority in writing of the Registrar.

6. The Seal of the Court shall not be affixed to any certified copy issued by the Court save under the authority in writing of the Registrar or of a Deputy Registrar or Assistant Registrar.

7. The Registrar shall keep a list of all cases pending before the Court and shall, subject to these Rules and to any general or special directions given by the Chief Justice prepare the list of cases ready for hearing and shall cause public notice to be given thereof.

8. In addition to the powers conferred by other Rules, the Registrar shall have the following duties and powers subject to any general or special order of the Chief Justice :

(i) to require any plaint, petition of appeal, petition or other proceedings presented to the Court to be amended in accordance with the practice and procedure of the Court or to be represented after such requisition as the Registrar is empowered to make in relation thereto, has been complied with;

(ii) to fix the date of hearing of appeals, petitions or other proceedings and issue notices thereof;

(iii) to settle the index in cases where the record is prepared in the Supreme Court;

(iv) to make an order for change of Advocate on record with the consent of the Advocate or record:

(v) to direct any formal amendment of record;

(vi) to grant leave to inspect and search the records of the Court and order the grant of copies of documents to parties to proceedings;

(vii) to allow from time to time any period or periods not exceeding four weeks in the aggregate for furnishing information, complying with requisitions or for doing any other act necessary to make a plaint, appeal, petition or other proceeding complete.

ORDER IV

1-4. *Omitted.*

5. Subject to the provisions of these rules only those Advocates whose names are entered on the Common Roll maintained by the Bar Council of India under section 20 of the Advocates Act, 1961, shall be entitled to appear and plead before this Court.

Provided that the Court may, if for any special reason it thinks desirable to do so, permit any other person, to appear before it in a particular case.

6. *Omitted.*

7(a). The Chief Justice and the Judges may, with the consent of the Advocate, designate an Advocate as Senior Advocate if in their opinion by virtue of his ability, experience and standing at the Bar the said Advocate is deserving of such distinction.

(b) A Senior Advocate shall not—

(i) file a vakalat or act in any Court or Tribunal in India;

(ii) appear without an Advocate on Record in this Court or without a Junior in any other Court or Tribunal in India.

(iii) accept instructions to draw pleadings, affidavits advice on evidence or to do any drafting work of an analogous kind in any Court or Tribunal in India or undertake conveyancing work of any kind whatsoever but this prohibition shall not extend to settling any such matter as aforesaid in consultation with a Junior.

(iv) accept directly from a client any brief or instructions to appear in any Court or Tribunal in India.

Explanation :

'Acting' means to file an appearance or any pleadings or applications in any Court or Tribunal in India, or to do any act (other than pleading) required or authorised by law to be done by a party in such Court or Tribunal either in person or by his recognised Agent or by an Advocate or Attorney on his behalf.

'Tribunal' includes any authority or person legally authorised to take evidence and before whom Advocates by or under any law for the time being in force are entitled to practice.

'Junior' means an Advocate other than a Senior Advocate.

(c) Upon an advocate being designated as a Senior Advocate the Registrar shall communicate to all the High Courts and the Secretary, Bar Council of India the name of the said Advocate and the date on which he was so designated.

8. The Attorney-General for Inidia, after him, the Solicitor General of India and after him the Advocate-General of a State appearing as such, shall have precedence over all other Advocates in the Court.

9. Save as aforesaid a Senior Advocate shall have precedence over other Advocates.

10. Subject to the preceding rules of this Order, an Advocate appearing before the Court shall have precedence among the Senior or other Advocates, as the case may be, according to the date of his enrolment as a Senior or other Advocate in the Court, and Advocates transferred to the Rolls of the Supreme Court from the Rolls of the Federal Court shall take precedence in the Supreme Court in the order in which they were enrolled in the Federal Court.

11. Any question which arises with respect to the precedence of any Advocate-General of a State or an Advocate shall be determined by the Court.

12. The Roll of Advocates shall be kept by the Registrar and shall contain such particulars as the Court may from time to time require.

13. All Advocates appearing before the Court shall wear such robes and costume as may from time to time be directed by the Court.

14. The enrolment fee for an Advocate other than a Senior Advocate shall be Rs. 250 and for a Senior Advocate Rs. 500:

Provided that where an Advocate of the Supreme Court is enrolled as a Senior Advocate the fee payable by him on such enrolment shall be reduced by the amount of the original fee paid by him for his enrolment as an Advocate of the Supreme Court.

15. Any Advocate not being a Senior Advocate may, on his fulfilling the conditions laid down in Rule 16, be registered in the Court as an Advocate on Record:

Provided that notwithstanding anything contained in Rule 16 any Advocate, whose name was registered with the Registrar as an Advocate on Record immediately before the 8th day of September, 1962 shall be registered as an Advocate on Record.

16. No Advocate shall be qualified to be registered as an Advocate on Record unless he—

(1) has undergone training for one year with an Advocate on Record approved by the Court, and has thereafter passed such tests as may be held by the Court for Advocates who apply to be registered as Advocates on Record, particulars whereof shall be notified in the Gazette of India from time to time; provided however that an Attorney shall be examined from such training and test:

(2) has an office in Delhi within a radius of 10 miles from the Court House and gives an undertaking to employ, within one month of his being registered as Advocate on Record, a registered clerk; and

(3) pays a registration fee of Rs. 25/-.

17. An Advocate on Record shall be entitled to act as well as plead for any party in a proceeding on his filing in the proceeding a memorandum of appearance accompanied by a Vakalatnama duly executed by the party in the prescribed form.

No Advocate other than an Advocate on Record shall be entitled to file an appearance or act for party in the Court.

18. Where an Advocate on Record ceases to have an office and/or a registered clerk as required by clause (2) of rule 16, notice shall issue to such Advocate to

show cause before the Chamber Judge on a date fixed, why his name should not be struck off the register of Advocates on Record, and if the Chamber Judge thinks fit to make such an order the name of such Advocate shall be removed from the register accordingly and the Advocates shall thereafter cease to be entitled to act as an Advocate on Record.

18-A. Where an Advocate on Record is suspended or his name is removed the Common Roll maintained under the Advocates Act, 1961, he shall unless otherwise ordered the Court be deemed as from the date of the order of the State Bar Council or the Bar Council of India, as the case may be, to be suspended or removed from the register of Advocates on Record for the same period as mentioned in the order of the State Bar Council or the Bar Council of India.

19. Any Advocate on record may at any time by letter request the Registrar to remove his name from the Register of Advocates on record, absolutely or subject to his continuing to act as Advocate on record in respect of all or any of the pending cases in which he may have filed a Vakalatnama, of which he shall file a list. The Registrar shall thereupon remove his name from the Register of Advocates on record, absolutely or subject as aforesaid.

20. No Advocate other than an Advocate on record shall appear and plead in any matter unless he is instructed by an Advocate on record.

21. Every Advocate on record shall notify to the Registrar the address of his office in Delhi and any change of address, and any notice, writ, summons, or other document served on him or his clerk at the address notified by him shall be deemed to have been properly served.

22. (1) An Advocate on record or a firm of Advocates may employ one or more clerks to attend the Registry for presenting or receiving any papers on behalf of the said Advocates or firm of Advocates, provided that the clerk has been registered in the Registry as the Clerk of such Advocate or firm of Advocates on application made to the Registrar in the prescribed form by such Advocate or firm of Advocates.

(2) Notice of every application for the registration of a clerk shall be given to the Secretary, Supreme Court Bar Association, who shall be entitled to bring to the notice of the Registrar within 7 days of the receipt of the notice any facts which in his opinion may have a bearing on the suitability of the clerk to be registered.

(3) The Registrar may decline to register any clerk who in his opinion is not sufficiently qualified, or is otherwise unsuitable to be registered as such, and may for reasons to be recorded in writing, remove from the Register the name of any clerk after giving him and his employer an opportunity to show cause against such removal. Intimation shall be given to the Secretary, Bar Association, of every order registering a clerk or removing a clerk from the register.

(4) Every clerk shall, upon registration, be given an identity card which he shall produce whenever required, and shall surrender when he ceases to be the clerk of the Advocate or firm of Advocates, for whom he was registered, where a fresh identity card is required in substitution of one that is lost or damaged, a fee of Rs. 3 shall be levied for the issue of the same.

(5) Every Advocate on record shall have a registered clerk. No Advocate may employ as his clerk any person who is a tout.

22-A(1). The Registrar shall publish lists of persons proved to his satisfaction, by evidence of general repute or otherwise, habitually to act as touts to be known as 'list of touts' and may, from time to time, alter and amend such lists.

A copy of every list of touts shall be kept hung upon the Court Notice Board,

Explanation:

(a) 'Tout' means a person who procures, in consideration of any remuneration moving from any Advocate or from any person on his behalf, the employment of such Advocates in any legal business, or who proposes to any Advocate or procures, in consideration of any remuneration moving from such Advocate or from any person on his behalf, the employment of the Advocate in such business, or who for purposes of such procurement frequents the precincts of the Court.

(b) The passing of a resolution by the Supreme Court Bar Association declaring any person to be a tout shall be evidence of general repute of such person for purpose of this Rule.

(2) No person shall be included in the list of touts unless he has been given an opportunity to show cause against his inclusion in such list. Any person may appeal to the Chamber Judge against the order of the Registrar including his name in such list.

(3) The Registrar, may, by general or special order, exclude from the precincts of the Court all such persons whose names are included in the list of touts.

23. *Omitted.*

24. No person having an Advocate on record shall file a vakalatnama authorising another Advocate on record act for him in the same case save with the consent of the former Advocate on record or by leave of the Judge in Chambers, unless the former Advocate on record is dead, or is unable by reason of infirmity of mind or body to continue to act.

25. Where a party changes his Advocate on record, the new Advocate on record shall give notice of the change to all other parties appearing.

26. No Advocate may, without the leave of the Court, withdraw from the conduct of any case by reason only of the non-payment of fees by his client.

27. No person having an Advocate on record shall be heard in person save by special leave of the Court.

28. No Advocate on record shall authorise any person whatsoever, except another Advocate on record, to act for him in any case.

29. Every Advocate on record shall be personally liable to the Court for the due payment of all fees and charges payable to the Court.

30. *Omitted.*

31. Two or more Advocates on Record may enter into a partnership with each other, and any partner may act in the name of the partnership provided that the partnership is registered with the Registrar. Any change in the composition of the partnership shall be notified to the Registrar.

ORDER IV A[1]

APPEALS UNDER SECTION 38 OF THE ADVOCATES ACT, 1961.

1. An appeal from an order made by the Disciplinary Committee of the Bar Council of India under section 36 or section 37 of the Advocates Act, 1961, shall be lodged in this Court within sixty days from the date on which the order complained of is communicated to the aggrieved person:

Provided that:

(i) in computing the period of sixty days time requisite for obtaining an authenticated copy of the order sought to be appealed from shall be excluded; and

1. Substituted by G.S.R. 1442, d. 1-9-68: Gaz. of India, d. 7-9-68, Part II, s. 3(i), p. 1680.

(ii) the Court may for sufficient cause extend the time on application made for the purpose.

2. The memorandum of appeal shall be in the form of a Petition. It shall state succinctly and clearly all the relevant facts leading up to the order complained of, and shall set forth in brief the objections to the decision appealed from and the grounds relied on in support of the appeal. The Petition shall also state the date on which the order complained of was received by the appellant. The allegations of facts contained in the Petition which cannot be verified by reference to the duly authenticated copies of the documents accompanying it shall be supported by affidavit of the appellant.

3. The Petition shall be divided into paragraphs, numbered consecutively, each paragraph being confined to a distinct portion of the subject and shall be typed or cyclostyled or printed on one side of standard petition paper, demy-foolscap size, or on paper of equally superior quality.

4. The Petition shall be made on a court-fee stamp of the value of Rs. 10 and shall be signed by the appellant, where the appelant appears in person, or by a duly authorised Advocate on Record on his behalf.

5. The Petition of Appeal shall be accompanied by:

(i) an authenticated copy of the decision sought to be appealed from, and

(ii) at least seven spare sets of the Petition and the papers filed with it.

6. The Registrar after satisfying himself that the Petition of Appeal is in order, shall endorse thereon the date of presentation, register the same as an appeal and send a copy thereof to the Secretary Bar Council of India for record.

7. On the registration of the appeal the Registrar shall after notice to the appellant or his Advocate on Record, if any, post the appeal before the Court for preliminary hearing and for orders as to issue of notice. Upon such hearing, the Court, if satisfied that no *prima facie* case has been made out for its interference, may dismiss the appeal, and, if not so satisfied, direct that notice of the appeal be issued to the Advocate-General of the State concerned or to the Attorney-General or to both, and to the Respondent.

8. Within ten days of the receipt by him of the intimation of admission of appeal under rule 7, the Secretary of the Bar Council of India shall transmit to this Court the entire original record relating to the case and such number of copies of the paper books prepared for the use of the Disciplinary Committee of the Bar Council of India as may be available.

9. Within fifteen days of the service of the notice of admission of appeal under rule 7 the Advocate-General of the State or the Attorney-General or the respondent may cause an appearance to be enter either personally or by an Advocate on Record on his behalf.

10. Where a respondent does not enter appearance within the time limited under rule 9, the appeal shall be set down *ex parte* as against him on the expiry of the period of one month from the receipt by him of the notice of the admission of appeal.

11. After the receipt of the original record the Registrar shall with all convenient speed, in consultation with the parties to the appeal, select the documents necessary and relevant for determining the appeal and cause sufficient number of copies of the said record to be typed or cyclostyled or printed at the expense of the appellant.

12. Unless otherwise ordered by the this Court every appeal under this Order shall be made ready and if possible posted for hearing before this Court within four months of the registration thereof.

13. Where the appellant fails to take any steps in the appeal within the time fixed for the purpose by these rules or unduly delays in bringing the appeal

to a hearing, the Registrar shall call upon him to explain his default and if no explanation is offered, or if the explanation offered is in the opinion of the Registrar, insufficient, the Registrar may after notifying all the parties, who have entered appearance, place the appeal before the Court for orders on the default, and the Court may dismiss the appeal for want of prosecution or give such directions in the matter as it may think fit and proper.

14. The costs of and incidental to all proceedings in the appeal shall be in discretion of the Court.

ORDER V

Business in Chambers

1. The powers of the Court in relation to the following matters may be exercised by the Registrar:—

(1) Applications for discovery and inspection.

(2) Applications for delivery of interrogatories.

(3) Applications for substituted service.

(4) Applications for time to plead, for production of documents, and generally relating to the conduct of cause, appeal or matter.

(5) Applications for leave to take documents out of the custody of the Court.

(6) Questions arising in connection with the payment of court-fees.

(7) Applications by third parties for return of documents.

(8) Applications for grant of copies of records to third parties.

(9) Applications for issue of a certificate regarding any excess court fee paid under a mistake.

2. The powers of the Court in relation to the following matters may be exercised by a single Judge sitting in Chambers :—

(1) Applications for revivor or substitution.

(2) Applications for approval of a Translator or an Interpreter.

(3) Applications for production of documents outside Court premises.

(4) Applications for change of Advocate on record.

(5) Applications for Advocate on record for leave to withdraw.

(6) Applications for leave to compromise or discontinue pauper appeal.

(7) Applications for striking out or adding party.

(8) Applications for separate trials of causes action.

(9) Application for separate trials to avoid embarrassment

(10) Rejection of plaint.

(11) Applications for setting down for judgment in default of written statement.

(12) Applications for better statement of claim or defence.

(13) Applications for particulars.

(14) Applications for striking out any matter in a pleading

(15) Applications for amendment of pleading and for enlargement of time to amend.

(16) Applications to withdraw suits.

(17) Applications for payment into Court.

(18) Applications for payment out of Court of money or security, or interest or dividend on securities.

(19) Applications to tax bills returned by the Taxing Officer

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(21) Applications for review of taxation by Court.

(22) Applications for enlargement or abridgement of time except applications for condonation of delay in filing special leave petitions.

(23) Applications for issue of commissions.

(24) Applications for security for costs.

(25) Applications for assignment of Security Bonds.

(26) Questions arising in taxation referred by the Taxing Officer.

(27) Applications for extending returnable dates of warrants.

(28) Applications for orders against clients for payment of costs.

(29) Applications for taxation and delivery of bills of costs and for delivery by an Advocate of documents and papers.

(30) Applications for registration of Advocates as Advocates on Record.

(31) Applications for leave to proceed in *forma pauperis*.

(32) Applications for grant of bail.

(33) Applications for stay of execution of sentence or order in criminal proceedings.

(34) Applications for stay of execution of decree or order in civil matters during vaction.

(35) Consent applications in interlocutory matters.

(36) Applications by accused persons for engagement of Advocate under rule 26 of Order XXI.

(37) Applications to appoint or discharge a next friend or guardian of a minor or a person of unsound mind and direct amendment of the record thereof.

(38) Fixing the remuneration of a Court guardian.

3. An appeal shall lie from the Registrar in all case to the Judge in Chambers:

Provided that it is filed within fifteen days from the date of the order complained of.

4. The Registrar may, and if so directed by the Judge in Chambers shall, at any time adjourn any matter to the Judge in Chambers, and the Judge in Chambers may at any time adjourn any matter into Court.

5. (1) Unless otherwise ordered, the Notice of Motion together with the affidavit in support thereof shall be served on the opposite party not less than 7 days before the day appointed for the motion where such opposite party has entered appearance, and not less than 14 days before the day appointed for the motion where such party has not entered appearance.

Affidavits in opposition shall be filed in the Registry not later than 3 days before the day appointed for the hearing, and affidavits in reply shall be filed not later than 2 P.M., on the day preceding the day of hearing, The affidavits in opposition or reply shall be served on the opposite party or parties and shall not be accepted in the Registry unless they contain an endorsement of service signed by such party or parties.

(2) Leave to serve short notice of motion may be obtained *exparte* from the Registrar upon affidavit.

6. *Omitted.*

7. Any interlocutory or miscellaneous application, notwithstanding that it is made in an appeal or other proceeding in which a substantial question of law as to the interpretation of the Constitution is raised, may be heard and decided by a Bench of less than 5 Judges.

ORDER VI

NOTICES OF MOTION

1. Except where otherwise provided by any Statute or prescribed by these Rules, all applications which in accordance with these Rules cannot be made in Chambers shall be made on motion after notice to the parties affected thereby.

2. Where the delay caused by notice would or might entail serious hardship, an application may be made for an *ad interim ex parte* order duly supported by an affidavit and the Court, if satisfied that the delay caused by notice would entail serious hardship, may make an order *ex parte* upon such terms as to costs or otherwise, and subject to such undertaking, if any, as the Court may think just, pending orders on the main application by notice of motion.

3. Where an *ex parte* order is made by the Court, unless the Court has fixed a date for the return of the notice, or otherwise directs, the Registrar shall fix a date for the return of the notice and the application by notice of motion shall be posted before the Court for final orders on the return date.

4. A notice of motion shall be instituted in the suit or matter in which the application is intended to be made and shall state the time and place of application and the nature of the order asked for and shall be addressed to the party or parties intended to be affected by it unless they have an Advocate on record, in which case it may be addressed to the Advocate on record, and shall be signed by the Advocate on record of the party moving, or by the party himself where he acts in person.

5. The notice of motion together with the affidavit in support thereof shall be served on the opposite party not less than five days before the day appointed for the motion and the affidavit of service shall be filed in the Registry at least three days before the day appointed for the motion. Affidavits in answer or reply shall be filed in the Registry during office hours not later than 4 p.m. on the day preceding the day of hearing; copies of these affidavits shall be served on the other parties to the notice of motion and the affidavits shall not be accepted in the Registry unless they contain an endorsement of service signed by the other party or parties.

6. Notice shall be given to the other party or parties on all grounds intended to be urged in support of, or in opposition to, any motion.

ORDER VI-A

PROCEEDINGS BY OR AGAINST MINORS AND PERSONS OF UNSOUND MIND

1. Every appeal, petition or other proceeding by a minor shall be instituted in his name by his next friend. The guardian or next friend of the minor on record in the proceedings in the court appealed from may act as the next friend of the minor in the appeal to this court without a specific order of this court.

2. A next friend shall not retire without leave of the Court. The Court may require him to procure a fit person to be put in his place before he is permitted to retire, and may also, if it thinks fit, require him to furnish security for costs already incurred as a condition of his retirement.

3. (1) On the retirement, removal or death of the next friend of a minor, further proceedings shall be stayed until the appointment of a new next friend in his place.

(2) Where the Advocate on record of such minor omits, within a reasonnable time, to take steps to get a new next friend appointed, any person interested in the minor or in the matter in issue may apply to the Court for the appointment of one, and the Court may appoint such person as it thinks fit.

4. An application for the appointment of a new next friend shall be supported by an affidavit showing that the person proposed is a fit and proper person to be appointed and has no interest adverse to that of the minor.

5. Where a respondent to an appeal or petition is a minor and is not represented by a guardian, an application shall be made to the Court by the appellant or petitioner as the case may be, or by some person interested in the minor for the appointment of a guardian of such minor, and it shall be supported by an affidavit stating that the proposed guardian has not interest in the matter in question in the appeal or petition adverse to that of the minor. Where a person other than the father or other natural guardian of the minor is proposed as guardian, notice of the application shall be served on the father on other natural guardian of the minor, or on the person with whom the minor resides, not less than 14 days before the day named in the notice for the hearing of the application. Where there is no other person fit and willing to act as guardian, the Court may appoint an officer of this Court to be the guardian.

6. (1) No guardian shall retire from a suit, appeal or other proceeding without the leave of Court. Where a guardian fails to do his duty or other sufficient cause is shown for his removal, the Court may remove him and make such order as to costs as it thinks fit.

(2) Where the guardian retires, dies or is removed by the Court during the pendency of the suit, appeal or other proceeding, the Court shall appoint a new guardian in his place.

7. When a guardian *ad litem* of a minor respondent is appointed, and it is made to appear to the Court that the guardian is not in possession of any, or sufficient, funds for the conduct of the appeal or petition on behalf of the respondent, and that the respondent will be prejudiced in his defence thereby, the Court may, in its discretion, from time to time, order the applicant or petitioner, as the case may be, to advance to the guardian for the purpose of his defence such moneys as the Court may fix, and all moneys so advanced shall form part of the costs of the appellant or petitioner in the appeal or petition, as the case may be. The order shall direct that the guardian do file in Court an account of the moneys so received by him.

8. An application to declare as a major a party to a proceeding described as a minor and to discharge his next friend or guardian shall be supported by an affidavit stating the age of the alleged major and the date on which he attained majority. Notice of the application shall be given to the next friend or guardian and to the alleged major.

9. No next friend or guardian of a minor in an appeal or other proceeding, shall, without the leave of the Court, expressly recorded in the proceedings, enter into any agreement or compromise on behalf of a minor with reference to the appeal or proceeding in which he acts as next friend or guardian.

10. An application made to the Court for leave to enter into an agreement or compromise or for the withdrawal of any appeal or other proceeding in pursuance of a compromise on behalf of a minor, shall be supported by an affidavit from the next friend or guardian of the minor stating that the agreement or compromise is for the benefit of the minor, and, where the minor is represented by an

Advocate, by a certificate or by a statement at the Bar from such Advocate to the effect that the agreement or compromise is, in his opinion, for the benefit of the minor. A decree or order made in pursuance of the compromise of an appeal or other proceeding, to which a minor is a party, shall recite the sanction of the Court thereto and shall set out the terms of the compromise,

11. The provisions of this Order, so far as they are applicable, shall apply to persons adjudged to be of unsound mind and to persons who, though not so adjudged, are found by the Court on enquiry, by reason of unsoundness of mind or mental infirmity, to be incapable of protecting their interests when suing or being sued.

12. Save as aforesaid, the provisions of Order XXXII of the Code relating to suits so far as applicable, shall apply mutatis mutandis to appeals and other proceedings in this Court.

ORDER VII

DOCUMENTS

1. The officers of the Court shall not receive any pleading, petition, affidavit or other document, except original exhibits and certified copies of public documents, unless it is fairly and legibly written, type written or lithographed in duble-line spacing, on one side of standard petition paper, demy-foolsceap size, or paper which is ordinarily used in the High Courts for the purpose. Copies filed for the use of the Court shall be neat and legible. and shall be certified to be true copies by the Advocate on record, or by the party in person, as the case may be.

Provided that a translation agreed to by both parties, or certified to be a true translation by a translator appointed or approved by the Court, may be accepted.

2. No document in a language other than English shall be accepted for the purpose of any proceedings before the Court, unless translated in accordance with these Rules.

3. Every document required to be translated shall be translated by a translator nominated or approved by the Court :

Provided that a translation agreed to by both parties, or certified to be a true translation by the translator appointed or approved by the Court, may be accepted.

4. Every translator shall, before acting, make an oath or affirmation that he will translate correctly and accurately all documents given to him for translation.

5. All plaints, petitions, appeal and other documents shall be presented in person by the plaintiff, petitioner or appellant or by an Advocate of the Court duly appointed by him for the purpose.

6. The Registrar may decline to accept any document which does not conform to the Rules of the Court, or is otherwise defective, which is presented otherwise than in accordance with the Rules of the Court.

7. Except as otherwise specifically provided by these rules or by any law for the time being in force, the Court-fees set out in the Third Schedule to these rules shhall be payable on the documents mentioned therein, and no document chargeable with a fee under the said Schedule shall be received or filed in the Registry unles the fee prescribed has been paid on it.

ORDER VIII

AFFIDAVITS

1. The Court may, at any time, for sufficient reason, order that any particular fact or facts may be proved by affidavit, or that the affidavit of any witness may be read at the hearing, on such conditions as the Court thinks reasonable:

Provided that where it appears to the Court that either party *bona fide* desires the production of a witness for cross-examination and that such witness can be produced, an order shall not be made authorising the evidence of such witness to be given by affidavit.

2. Upon any application evidence may be given by affidavit; but the Court may, at the instance of either party, order the attendance for cross-examination of the deponent, and such attendance shall be in Court, unless the deponent is exempted from personal appearance in Court or the Court otherwise directs.

3. Every affidavit shall be insituted in the case, appeal or matter in which it is sworn.

4. Every affidavit shall be drawn up in the first person, and shall be divided into paragraphs to be numbered consecutively, and shall state the description, occupation, if any, and the true place of abode of the deponent.

5. Affidavits shall be confined to such facts as the deponent is able of his own knowledge to prove, except on interlocutory applications on which statements of his belief may be admitted, provided that the grounds thereof are stated.

6. The costs occasioned by any necessary prolixity in the title to an affidavit or otherwise shall be disallowed by the Taxing Officer.

7. An affidavit requiring interpretation to the deponent shall be interpreted by an interpreter nominated or approved by the Court, if made within the State of Delhi, and if made elsewhere, shall be interpreted by a competent person who shall certify that he has correctly interpreted the affidavit to the deponent.

8. Affidavits for the purposes of any cause, appeal or matter before the Court may be sworn before any authority mentioned in section 139 of the Code or before the Registrar of this Court, or before a Commissioner generally or specially authorised in that behalf by the Chief Justice.

9. Where the deponent is a *purdahnashin* lady she shall be identified by a person to whom she is known and that person shall prove the identification by a separate affidavit.

10. Every exhibit annexed to an affidavit shall be marked with the title and number of the cause, appeal or matter and shall be initialled and dated by the authority before whom it is sworn.

11. No affidavit having any interlineation, alteration or erasure shall be filed in Court unless the interlineation or alteration is initialled, or unless in the case of an erasure the words or figures written on the erasure are rewritten in the margin and initialled, by the authority before whom the affidavit is sworn.

12. The Registrar may refuse to receive an affidavit where in the opinion the interlineations, alterations or erasures are so numerous as to make it expedient that the affidavit should be rewritten.

13. Where a special time is limited for filling affidavits, no affidavit filed after that time shall be used except by leave of the Court.

14. In this Order, 'affidavit' includes a petition or other document required to be sworn or verified; and 'sworn' includes affirmed. In the verification

of petitions, pleadings or other proceedings, statements based on personal knowledge shall be distinguished from statements based on information and belief.

ORDER IX

INSPECTION, SEARCH, ETC.

1. Subject to the provisions of these Rules, a party to any cause, appeal or matter who has appeared shall be allowed to search, inspect or get copies of all pleadings and other documents or records in the case, on payment of the prescribed fees and charges.

2. The Court, on the application of a person not a party to the cause, appeal or matter may on good cause shown allow such search or inspection or grant such copies as is or are mentioned in the last preceding Rule, on payment of the prescribed fees and charges.

3. A search or inspection under the last two preceding Rules during the pendency of a cause, appeal or matter, shall be allowed only in the presence of an officer of the Court and after twenty four hours' notice in writing to the parties who have appeared, and copies of documents shall not be allowed to be taken, but notes of the search or inspection may be made.

4, Copies required under any of the preceding Rules of this Order may be Certified as correct copies by the Registrar, Deputy Registrar, Assistant Registrar, or such other officer as may be authorised in that behalf by the Registrar.

4-A. An application may be made to the Registrar for the issue urgently of a copy of any judgment, decree or order of this Court, or of any proceeding filed in this Court, and upon the order being so made, the copy required shall be made ready and issued expeditiously.

5. No record or document filed in any cause, appeal or matter shall, without the leave of the Court, be taken out of the custody of the Court.

6. The Registrar may, in his discretion, permit any record to be sent to any Court, tribunal or other public authority on requisition received from such Court, tribunal or authority.

ORDER X

JUDGMENTS, DECREES AND ORDERS

1. The Court, after the case has been heard, shall pronounce judgment in open Court, either at once or on some future day, of which due notice shall be given to the parties or their Advocates on Record, and the decree or order shall be drawn up in accordance therewith.

2. A member of the Court may read a judgment signed by another member.

3. Subject to the provisions contained in Order XXXVIII, a judgment pronounced by the Court or by a majority of the Court or by a dissenting Judge in open Court shall not afterwards be altered or added to, save for the purpose of correcting a clerical or arithmetical mistake or an error arising from any accidental slip or omission.

4. Certified copies of the judgment, decree or order shall be furnished to the parties on requisition made for the purpose, and at their expense.

5. Every decree passed or order made by the Court shall be drawn up in the Registry and be signed by the Registrar or Deputy Registrar and sealed with the

Seal of the Court and shall bear the same date as the judgment in the suit or appeal.

6. The decree passed or order made by the Court in every appeal, and any order for costs in connection with the proceedings therein, shall be transmitted by the Registrar to the Court or tribunal from which the appeal was brought, and steps for the enforcement of such decree or order shall be taken in that Court or tribunal in the way prescribed by law.

7. Orders made by the Court in other proceedings shall be transmitted by the Registrar to the Judicial or other authority concerned to whom such orders are directed, and any party may apply to the Judge in Chambers that any such order, including an order for payment of costs, be transmitted to any other appropriate Court or other authority for enforcement.

8. In cases of doubt or difficulty with regard to a decree or order made by the Court, the Registrar shall, before issuing the draft, submit the same to the Court.

9. Where the Registrar considers it necessary that the draft of any decree or order should be settled in the presence of the parties or where the parties require it to be settled in their presence, the Registrar shall, by notice in writing, appoint a time for settling the same and the parties shall attend the appointment and produce the briefs and such other documents as may be necessary to enable the draft to be settled.

10. Where any party is dissatisfied with the decree or order as settled by the Registrar, the Registrar shall not proceed to complete the decree or order without allowing that party sufficient time to apply by motion to the Court.

ORDER XI

PAYMENT INTO AND OUT OF COURT OF SUITORS' FUNDS

1. Unless Otherwise ordered, all monies directed to be paid into this Court to be credit of any suit, appeal or other proceeding, shall be paid into the Reserve Bank of India at New Delhi (hereinafter referred to as the Bank), into an account entitled 'Government A/c-P-Deposits and Advances—II Deposits Not Bearing Int. —(C) Other Deposits A/cs.—Deptl. and Judicial Deposits—Civil Deposits—Civil Court Deposits'.

2. Any person ordered to pay money into Court shall present a Lodgment Schedule in the prescribed form to the Superintendent of the Accounts Section of the Registry for the issue of a chalan to enable him to make the payment into the Bank. The Lodgment Schedule shall be accompanied by a copy of the Order directing the payment or shall bear a Certificate from the Registrar endorsed thereon as to the amount to the paid and the time within which the payment is to be made.

3. On presentation of the Lodgment Schedule, a chalan, in duplicate in the prescribed form, specifying the amount to be paid and the date within which it should be paid, but in no case exceeding ten days from the date of issue of the chalan, shall be issued by the Superintendent, Accounts Section, to the party directed to make the payment, who shall thereupon present the same at the Bank and make the payment. The Bank shall, on receiving payment, retain one copy of the chalan and return the other copy, duly signed and dated acknowledging the receipt of the money, to the person making the payment. The Bank shall not accept the payment if the amount is tendered beyond the date mentioned in the chalan as the last date for payment.

4. On production of the copy of the chalan duly signed and acknowledged by the Bank as aforesaid, the person making the payment shall be given credit in the books maintained by the Accounts Section of the Registry for the amount paid into the Bank, and a receipt signed by the Registrar shall be issued to him and the said chalan shall be retained in the Section.

5. The Superintendent of the Accounts Section shall keep a register cause-wise of all money, effects and securities of the suitors of the Court, which shall be ordered to be paid or delivered into or out of the Court.The purpose for which the deposit is made and the orders of attachment received, if any, of the funds,shall be duly entered in the register. No money shall be paid out of the funds in Court without an order of Court.

6. Where a party seeks payment out of any monies in Court, he shall present an application to the Court for an order for payment. The application shall be accompanied by a Certificate of funds signed by the Registrar showing the amount, if any, standing to the credit of the suit, appeal or other proceeding from which payment out is sought and the claims and attachments, if any, subsisting thereon on the date of the Certificate.

7. Upon an order being made for payment out, the party in whose favour the order is made shall apply the Registrar for payment to him in accordance with the said order. The Registrar shall thereupon issue an order for payment in the prescribed form for the amount to be paid in favour of the party entitled to payment. The payment order shall be endorsed at the same time on the original chalan received from the Bank. The payment order together with the chalan duly endorsed for payment shall be handed over to the party entitled to payment who shall present the same at New Delhi Treasury and obtain payment. Where however the entire amount of the chalan or the entire balance remaining unpaid thereunder is not to be paid out to party the original chalan shall not be handed over to him,but only a copy thereof endorsed for payment shall be given to him for presentation at the Treasury, the original chalan being retained in the Accounts Section until the funds are fully paid out.

8. The Superintendent, Accounts Section, shall check and tally the accounts maintained in the Section every month with the monthly statements of receipts and payments to be received from the Treasury and the Registrar shall certify under his signature every month that the accounts have been duly checked and tallied.

9. The Rules of this Order shall not apply to the payment of fees relating to enrolment of Advocates which may be paid into any Treasury or Sub-Treasury or the State Bank of India or the Reserve Bank of India, to the credit of an account entitled 'XXI-Administration of Justice-Receipts of the Supreme Court.'

PART II

APPELLATE JURISDICTION

(A) CIVIL APPEALS

ORDER XII

APPEALS ON CERTIFICATE BY HIGH COURT.

1. Subject to any special directions which the Court may give in any particular case, the provisions of Order XLV of the Code, and of any rules made for the purpose by the High Court or other authority concerned, so far as may be

applicable, shall apply in relation to appeals preferred under Articles 132 (1), 133 (1) and 135 of the Constitution.

1-A. The security to be furnished under Order XLV, Rule 7 (1) (a) of the Code shall, unless otherwise ordered by the Court appealed from, be in the sum of Rs. 2,500. The Court appealed from may in appropriate cases enhance the amount of security to be deposited up to a maximum of Rs. 5000.

2. An appellant who has obtained a certificate from the High Court may, at any time prior to the making of an order admitting the appeal, withdraw the appeal on such terms as to costs and otherwise as the High Court may direct.

3. Where an appellant, having obtained a certificate from the High Court, fails to furnish the security or make the deposit required, that Court may, on its own motion or on application in that behalf made by the respondent, cancel the certificate and may give such directions as to the costs of the appeal and the security entered into by the appellant as it shall think fit or make such further or other order as the justice of the case requires.

4. Where an appellant whose appeal has been admitted desires, prior to the despatch of the Record to this Court, to withdraw his appeal, the High Court may, upon an application in that behalf made by the appellant, grant him a certificate to the effect that the appeal has been withdrawn, and the appeal shall thereupon be deemed, as from the date of such certificate, to stand dismissed without an express order of this Court, and the costs of the appeal and the security entered into by the appellant shall be dealt with in such manner as the High Court may think fit to direct.

4-A. Where, after the admission of an appeal but prior to the despatch of the record to this Court, the parties enter into a compromise of the matters in dispute in appeal and desire to obtain a decree or order in terms thereof, the appellant shall file the deed of compromise in the High Court and apply to the High Court for an order to dispense with the printing of the record and to transmit to this Court such part of the record as may be necessary. On the order being made, the Registrar of the High Court shall transmit to this Court at the expense of the appellant ten copies of the record consisting of the judgment of the High Court the decree or order made thereon, the certificate of the High Court and the order admitting the appeal, the deed of compromise, the petition to transmit the record, and the order made thereon, and such other part of the record as the parties may consider necessary.

5. Where an appellant whose appeal has been admitted fails to show due diligence in taking all necessary steps in connection with the preparation of the Record, the Registrar of the High Court shall call upon the appellant to explain his default, and if no explanation is offered or if the explantion offered is unsatisfactory, the said Registrar shall call upon the appellant to show the cause before the said High Court why a certificate should not be issued that the appeal has not been effectually prosecuted by the appellant. Where the High Court issues such a certificate, the appeal shall be deemed, as from the date of such certificate, to stand dismissed for non-prosecution without an express order of this Court, and the costs of the appeal and the security entered into by the appellant shall be dealt with in such manner as the High Court shall think fit to direct.

6. Where there are two or more appeals arising out of the same matter, and the High Court is of the opinion that it would be for the convenience of this Court and all parties concerned that the appeals should be consolidated, the High Court may direct the appeals to be consolidated and make such order for security of costs as the justice of the case requires.

7. The liability of the parties to pay court-fee in this Court, unless otherwise ordered by this Court, shall not be affected by any order for consolidation of appeals made by the High Court or by this Court.

ORDER XIII

APPEALS BY SPECIAL LEAVE

1. *Time for filing special leave petition*—A petition for special leave to appeal shall be lodged in the Court within sixty days from the date of the refusal of a certificate by the High Court or within ninety days from the date of the judgment sought to be appealed from whichever is longer.

Provided that—

(i) in computing the period of ninety days the time requisite for obtaining a certified copy of the Judgment sought to be appealed from shall be excluded;

(ii) where the period of limitation claimed is sixty days from the date of the refusal of a certificate, the time taken subsequent to the date of refusal in obtaining a certified copy of the Judgment (in case where no certified copy the Judgment had been oftained prior to the date of such refusal) shall be excluded in computing the period of sixty days;

(iii) where an application for certificate made to the High Court is dismissed as being out of time, the period of limitation shall count from the date of the Judgment sought to be appealed from and not from the date of the dismissal of the said application;

(iv) where an application for leave to appeal to the High Court from the Judgment of a single Judge of that Court has been made and refused, the period from the making of the application to the rejection thereof shall be excluded in computing the period under this Rule;

(v) the Court may for sufficient cause extend the time on application made for the purpose.

1-A. Where the period of limitation is claimed from the date of the refusal of a certificate, it shall not be necessary to file the order refusing the certificate,but the petition for special leave shall be accompanied by an affidavit stating the date of the Judgment sought to be appealed from, the date on which the application for a certificate was made to the High Court the date of the order refusing the certificate, and the ground or grounds on which the certificate was refused, and in particular whether the application for the certificate was dismissed as being out of time.

2. *High Court to be moved first for certificate* :—Where an appeal lies to the Supreme Court on a certificate issued by the High Court or other Tribunal no application to the Supreme Court for special leave to appeal shall be entertained unless the High Court or the Tribunal concerned has first been moved and it has refused to grant the certificate.

3. *Petition to state facts and whether High Court first moved* :—The petition shall state succinctly and clearly all such facts as it may be necessary to state in order to enable the Court to determine whether special leave to appeal ought to be granted and shall be signed by the Advocate on Record for the petitioner unless the petitioner appears in person. The petitioner shall also state whether the petitioner has moved the High Court or the Tribunal concerned for leave to appeal against its decision, and if so, with what result.

4.(1) *Copy of judgment and affidavit to accompany petition* :—The petition shall be accompanied by a certified copy of the judgment appealed from and the affidavit in support thereof prescribed by rule 4 of Order XVII and the petitioner shall lodge at least seven copies of the petition and the accompanying papers.

(2) No annexures to the patition shall be accepted unless such annexures are certified copies of documents which have formed part of the Record of the case in the Court sought to be appealed from ; provided that uncertified copies of

documents may be accepted as annexures if such copies are affirmed to be true copies upon affidavit.

4-A. Where any person is sought to be impleaded in the petition as the legal representative of any party to the proceeding in the Court below, the petition shall contain a prayer of bringing on record such person as the legal representative, and shall be accompanied by an affidavit setting out the facts showing him to be the proper person to be entered on the record as such legal representative.

5. *Ex parte hearing of petition.*—Unless a caveat as prescribed by rule 2 of Order XVII has been lodged by the other parties who appeared in the Court below, petitions for grant of special leave to appeal shall be put up for hearing *ex parte* but the Court may, if it thinks fit, direct the petitioner te issue notice to the respondent and adjourn the hearing of the petition. Where the Court orders notice, the petition shall be posted for hearing after service of notice on the respondent and on an affidavit of service being duly filed by the petitioner.

Where a caveat has been lodged as aforesaid, notice of the hearing of the petition shall be given to the caveator ; but a caveator shall not be entitled to costs of the petition, unless the Court otherwise orders.

6. *Disposal of application by single judge* :—In urgent cases, when the Court is in vacation, an application for special leave to appeal may be heard and disposed of by a single judge :

'provided that it does not raise a substantial question of law as to the interpretation of the Constitution.'

7. *Amount of the security for costs :*—Where the Court grants special leave to appeal, it may in its order specify the amount of the security, for costs (if any) to be lodged by the petitioner, upto a maximum of Rs. 5,000 and the time within which such security is to be lodged, and, unless the circumstances of a particular case render such a course unnecessary, provide for the expeditious transmission of the printed record by the Registrar of the Court concerned or by the authority, to the Registrar of this Court, and for such further matters as the justice of the case may require. Unless the Court specially directs otherwise any security for costs to be furnished by the petitioner shall be in the sum of Rs. 2,500 in cash or Government securities and shall be lodged in the Court or tribunal from whose judgment or decision special leave to appeal has been granted within six weeks of the date of the order, granting special leave and that court of tribunal shall deal with such security in accordance with the directions contained in the order of the Court when determining the appeal.

8. *Transmission of certified copy of order of Court or Tribunal :* After he grant of special leave to appeal by the Court, the Registrar shall transmit a certified copy of the order and a certified copy of the petition for special leave and of the affidavit if an filed in support to the court or tribunal appealed from.

9. *Court or Tribunal to act in accordance with XLV, C.P.C.:* On receipt of the said order, the court or tribunal appealed from shall, in the absence of any special directions in the order, act in accordance with the provisions contained in Order XLV of the Code, so far as applicable.

10. *Withdrawal of appeal:* Where an appellant who has obtained special leave to appeal desires, prior to the despatch of the record to this Court, or withdraw his appeal, the High Court may, upon an application in that behalf made by the appellant, grant him a certificate to the effect that the appeal has been withdrawn and the appeal shall thereupon be deemed as from the date of such certificate to stand dismissed without an express order of this Court and the costs of the appeal and the security entered into by the appellant shall be dealt with in such manner as the High Court may think fit to direct. A copy of the said certificate shall be forwarded to the Registrar of this Court.

11. *Intimation by Registrar regarding security deposit.*—Where the security is to be deposited in the Court appealed from, the Registrar of the Court appealed from shall, as soon as the deposit is made, intimate the fact and the date of such deposit to Registrar of this Court ; where the deposit is not made within the time fixed or within such further time as may be granted by this Court, the Registrar of the Court appealed from shall forthwith report the default to the Registrar of this Court.

12. *Defaults in depositing security.*—Upon intimation from the Registrar of the Court appealed from that the petitioner has committed default in depositing the security, or, where the security is to be deposited in this Court, upon default of the petitioner in depositing the same within the time fixed or such further time as the Court may grant, the Registrar shall, after notice to the Advocate on record for the petitioner, post the matter before the Court for orders on the default of the petitioner in lodging security, and the Court may thereupon revoke the order granting special leave or make such other order as it thinks fit.

13. *Rescision of grant of special leave* —Where the appellant who has obtained special leave to appeal by an order of this Court, fails to have the printed record transmitted to the Registrar with due diligence, the Registrar of the Court appealed from shall report the default to the Registrar of this Court and the Registrar of this Court may thereupon issue a summons to the appellant calling upon him to show cause before this Court at a time to be specified in the said summons why the special leave to appeal should not be rescinded. The repondent shall be entitled to be heard before this Court in the matter of the said summon and to ask for his costs and such other relief as he may be advised. The Court may, after considering the matter of the said summons, rescind the grant of special leave to appeal, or give such other directions as the justice of the case may require.

13(A). Where the Court directs the preparation of the record under the supervision of the Registrar of this Court, the Registrar of the Court appealed from, shall, on requisition by the Registrar of this Court, forthwith transmit the original records of the case to this court.

14. *Furnishing of securiiy.*—Where security is required to be furnished in this Court, it shall be given to the Registrar or to such other officer as the Court may specially direct, and the Court may permit or order him to assign the same to any other person for the purposes of enforcing it upon such terms as the Court may think fit.

15. *Dealing with security.*—Where the appeallant has lodged security for the respondent's costs of an appeal in the Registry, the Registrar shall deal with such security in accordance with the directions contained in the Court's order determining the appeal.

15A. Where an appeal by special leave is allowed with costs, the appellant shall unless otherwise ordered be entitled to the costs of the special leave petition as part of the costs of the appeal.

16. *Provisions of Orders XII and XV to XX to apply to appeals by special leave.*—Save as otherwise provided by the rules contained in this Order, the provisions of order XII and orders XV to XX shall apply *mutatis mutandis* to appeals by special leave.

ORDER XIV

PAUPER APPEALS AND APPLICATIONS

1. *Pauper application:* An application for leave to proceed as a pauper shall be made to the Judge in Chambers.

2. (1) *Contents etc. of pauper application:* An application for leave to proceed as a pauper shall be made on petition setting out concisely in separate paragraphs the facts of the case and the relief sought and shall be accompanied by a copy of the certificate granting leave to appeal, or of the petition for special leave to appeal, as the case may be, and by an affidavit from the petitioner disclosing all the property to which he is entitled and the value thereof other than his necessary wearing apparel and his interest in the subject matter of the intended appeal, and stating that he is unable to provide security or sureties for costs of the respondent and pay court-fees.

(2) Where the application for leave to proceed as pauper is made in an intended petition for special leave to appeal, the petition shall be accompanied by a certificate from an advocate of this Court, which shall be in the form of a reasoned opinion, showing that the petition or has reasonable grounds of appeal.

3. *Fixing of date of hearing.*—The Registrar shall, on satisfying himself that the petition is in order, direct that the petition shall be filed, and set down for hearing before the Chamber Judge on a date to be fixed for the purpose.

4. *Posting of application before Chamber Judge.*—The applications hall be posted before—the Judge in Chambers who may himself enquire into the pauperism of the petitioner after notice to the other parties in the case and to the Attorney-General, or make an order directing the High Court either by itself or by a Court subordinate to the High Court, to investigate the pauperism after notice to the parties interested and submit a report thereon within such time as may be fixed by the order. On receipt of the report, the petition shall again be posted before the Judge in Chamber for further orders.

5. *Provisions of Order XLIV, C.P.C. to apply to pauper applications.*—In granting or refusing leave to appeal as a pauper, the Court shall ordinarily follow the principle set out in the proviso to Rule 1 of Order XLIV of the Code.

6. *No Court fee to be paid by pauper nor security to be lodged by him.*—Where a petitioner obtains leave of the Court to appeal as a pauper he shall not be required to pay court-fees or to lodge security for the costs of the respondent.

6A. The Judge in Chambers may assign an Advocate on Record to assist a pauper in the case, unless the pauper has made his own arrangement for his representation. Such assignment shall ordinarily be from a panel of Advocates willing to assist paupers and chosen by the Judge in Chambers. It shall however be open to the Judge in Chambers in his discretion to assign an Advocate on record outside the panel in any particular case.

7. (a) No fees shall be payable by a pauper to his Advocate, nor shall any such fees be allowed on taxation against the other party except by an order of Court. The Advocate may however receive from the pauper money for out of pocket expenses, if any, properly incurred in the case.

(b) It shall be open to the Court, if it thinks fit, to award costs against the adverse party or out of the property decreed to a pauper, and to direct payment of such costs to the Advocate for the pauper

(c) Save as aforesaid, no person shall take or agree to take or seek to obtain from a pauper any fee, profit or reward for the conduct of his case, and any person who takes, agrees to take or seeks to obtain, any such fee, profit or reward, shall be guilty of contempt of Court.

(d) Soon after a pauper appeal has been heard and disposed of, the Advocate for the pauper shall file in the Registry a statement of account showing what monies, if any, were received by him in the case on any account from the pauper or from any person on his behalf and the expenditure incurred. If no monies had been received, a statement shall be filed to that effect. The Taxing Officer may, where he thinks it necessary, place the statement filed before the Judge in Chambers for his perusal and orders.

8. *Recovery of court fee by Government of India.*—Where the appellant succeeds in the appeal, the Registrar shall calculate the amount of court-fees which would have been paid by the appellant if he had not been permitted to appeal as a pauper and incorporate it in the decree or order of the Court ; such amount shall be recoverable by the Government of India from any party ordered by the Court to pay the same, and shall be the first charge on the subject matter of the appeal.

9. *Appellant to pay court fee on dismissal of appeal or dispauperism.*—Where the appellant fails in the appeal or is dispaupered, the Court may order the appellant to pay the court-fees which would have been paid by him if he had not been permitted to appeal as a pauper.

10. *Application by Government for order for payment of court fees.*—The Central Government shall have the right at any time to apply to the Court to make an order for the payment of court-fees under Rules 8 and 9 above.

11. *Determination of question as to payment of court-fees.*—All matters arising between the Central Government and any party to the appeal under the three preceding rules shall be deemed to be questions arising between the parties to the appeal.

12. *Transmission of Memorandum of Court-fees to Attorney-General.*—In every pauper appeal the Registrar shall, after the disposal thereof send to the Attorney-General for India a memorandum of the court-fees payable by the pauper.

13. *Pauper appeal not to be compromised or withdrawn without leave of Court.*—No appeal or other proceeding begun, carried on or defended by a pauper shall be compromised or discontinued without the leave of the Court.

ORDER XV

PREPARATION OF RECORD, ETC.

1. As soon as the appeal has been admitted, whether by an order of the Court appealed from of by an order of this Court granting special leave to appeal, the appellent shall, without delay, take all necessary steps to have the printed Record transmitted to the Registrar of this Court, and the Registrar of the Court appealed from shall, with all convenient speed, certify to the Registrar of this Court that the respondent has received notice, or is otherwise aware, of the order of the court appealed from admitting the appeal, or of the order of this Court giving the appellant special leave to appeal.

2. *When fresh printing of record is necessary.*—Where the record has been printed for the purpose of the High Court appeal in the High Court concerned and sufficient number of copies of the printed record is available for purposes of the Supreme Court appeal, no fresh printing of the record shall be necessary except of such additional papers as may be required.

3. *Exclusion of irrelevant or unnecessary documents.*—In cases where the record is printed afresh for the purpose of the Supreme Court appeal, the Registrar of the Court appealed from, as well as the parties shall endeavour to exclude from the Record all documents (more particularly such as are merely formal) that are not relevant to the subject matter of the appeal, and, generally, to reduce the bulk of the Record as far as practicable, taking special care to avoid the duplication of documents and the unnecessary repetition of headings and other merely parts of document ; but the documents omitted to be printed shall be enumerated in a typewritten list to be transmitted with the Record.

3-A. Whenever the decision of the appeal is likely to turn exclusively on a question of law, the appellant may, with the sanction of the court appealed from print such parts only of the Record as may be necessary for the discussion of the same.

4. *Objection to inclusion of documents.*—Where in the course of preparation of a Record one party object to the inclusion of a document on the ground that it is unnecessary or irrelevant and the other party nevertheless insists upon its being included, the Record, as finally printed shall, with a view to the subsequent adjustment of the costs of and incidental to such document, indicate, in the index of papers, or otherwise, the fact that and the party by whom, the inclusion of the document was objected to.

5. *Record to be printed under supervision of High Court.*—In case where the record is printed afresh for the purpose of the Supreme Court appeal the Record shall be prepared and printed under the supervision of the court appealed from in accordance with the rules contained in First Schedule hereto, and the parties may submit any disputed question arising in connection therewith to the decision of the court, and it shall give such directions thereon as the justice of the case may require.

6. *Transmission of Record.*—When the Record has been made ready, the Registrar of the court appealed from shall—

(i) at the expense of the appellant transmit to the Registrar of this Court such number of copies as the Court may direct, or, in the absence of any special direction in this behalf, 20 copies of such Record, one of which copies he shall certify to be correct by signing his name on, or initialling, every eighth page thereof and by affixing thereto the seal of the court appealed from ;

(ii) give notice of the despatch of the Record to the parties ; and

(iii) send to the Registrar of this Court a certificate as to the date or dates on which the notice under the preceding sub-clause (ii) has been served.

7. *Registation of Records.*—As soon as the Record is received in the Registry of this Court, it shall be registered in the said Registry with the date of arrival, and the names of the parties.

7-A. (1) Where the record of the appeal is directed to be prepared under the supervision of the Registrar of this Court, he shall, on receipt of the records of the case from the Court appealed from, issue notice to the parties intimating the receipt of the record and requiring them to file, within 3 weeks fron the date of service of the notice, their respective lists of the documents which they wish to include in the appeal record; provided that the Registrar may in his discretion dispense with the issue of notice to a respondent who was *ex parte* in the proceeding before the Court below.

(2) The parties shall, within the time limited by the notice referred to in the last preceding Rule or such further time as the Registrar may allow, file their respective lists of docunents, and any time given to the appellant for filing his lists of documents shall ensure to the benefit of the respondent. The appellant shall file along with his list a requisition to draw up an estimate of the cost of preparation of the record. Each party shall serve on every opposite party who has entered appearance a copy of the list filed by him.

(3) After the expiry of the time fixed for the filing of the lists the Registrar shall fix a day for the settlement of the list of documents to be included in the appeal record, and shall give notice thereof to the parties who have entered appearance. In settling the list and in the preparation of the record, the provisions of rules 2, 3, 3-A and 4 above shall be observed.

(4) As soon as the list of documents and the index of the record are settled, the Registrar shall cause an estimate to be prepared of the cost of the preparation of the record in accordance with the rates in the schedule hereto, and a margin of 10 per cent. over the charges calculated according to the said rates, shall be included in the estimate. The estimate shall set out separately the amout to be deposited in Court-fees and the amount to be deposited in cash.

(5) As soon as the estimate is prepared, the Registrar shall cause the same to served on the appellant, and the appellant shall, within one month of such service, deposit into the Registry the amount of the estimate in Court-fees and/or cash as the case may be.

(6) If, at any time, during the preparation of the record, the amount deposited is found insufficient, the Registrar shall call upon the appellant to deposit such further sum as may be necessery, and until such deposit is made, shall suspend the preparation of the record. After the preparation of the record, any unspent balance shall be refunded to the appellant.

(7) Where the record has been made ready the Registrar shall certify the same, and thereupon the appeal shall be registered. The Registrar shall give the parties notice of the certification of the record and the registration of the appeal.

7-B. Appeals shall be numbered consecutively in each year in the order in which they are registered.

8. *Inspection of Record.*—The parties shall be entitled to inspect the Record and to extract all necessary particulars therefrom for the purpose of entering a appearance.

9. *Parties entitted to copies of record.*—Each party who has entered an appearance shall be entitled to receive, for his own use, four copies of the Record.

10. *Costs of printing.*—Subject to any special direction from the Court to the contrary, the costs of, and incidental to, the printing of the Record shall form part of the costs of the appeal, but the costs of, and incidental to, the printing of any document objected to by one party, in accordance with rule 4 above, shall, if such document is found, on the taxation of costs, to 'be unnecessary or irrelevant, be disallowed to, or borne by, the party insisting on including the same in the Record.

ORDER XVI

Appellant's Appearance and Lodging of Petition of Appeal

1. The appellant shall enter an appearance before taking any step in the prosecution of the appeal.

2. The appellant shall lodge his petition of appeal within a period of forty five days from the date of the service of notice of despatch of the Record by the Registrar of the court appealed from or, where the record has been prepared under the supervision of the Registrar of this Court, within 45 days from the date of service of the notice of certification of the Record and registration of the appeal.

or, where the record has been prepared under the supervision of the Registrar of this Court, within 45 days from the date of service of the notice of certification of the Record and registration of the appeal.

The appellant shall, along with the petition of appeal, lodge sufficient number of copies of the same for service on the respondents, together with the notice and process fees for such service.

3. The petition of appeal shall be lodge in the form prescribed by rule 1 of Order XVII hereinafter contained. It shall recite succinctly and, as far as possible, in chronological order, the principal steps in the proceedings leading up to the appeal from the commencement thereof down to the admission of the appeal, but shall not contain argumentative matter or travel into the merits of the case. It shall contain at the foot of it a memorandum of valuation of the appeal with particulars showing how the valuation has been arrived at. Where the appeal is incapable of valuation, it shall be so stated.

4. Where a party desires to appeal on grounds which can be raised only with the leave of the Court, the petition of appeal shall be accompanied by a separate petition indicating the grounds so proposed to be raised and praying for leave to appeal on those grounds and the petition shall, unless the Court otherwise directs, be heard at the same time as the appeal.

5. As soon as the petition of appeal is lodged, the Registrar shall cause notice thereof to be served on the respondent together with a copy of the petition of appeal. The date of the lodgment of the petition of appeal shall be endorsed on the copy served on the respondent :

Provided that the Registrar may dispense with service of the petition of appeal on any respondent who was *ex-parte* in the proceedings in the Court appealed from or on his legal representative :

Provided however that no order dispensing with service of notice shall be made in respect of a respondent who is a minor :

Provided however that an order dispensing with service shall not preclude any respondent or his legal representative from appearing to contest the appeal :

6. Where an appellant, who has not lodged his petition of appeal desires to withdraw his appeal, he shall make an application to that effect to the Registrar and thereupon the Registrar shall, with all convenient speed, certify to the Registrar of the court appealed from that the appeal has been withdrawn. The said appeal shall thereupon be deemed to stand dismissed as from the date of the said certificate without an express order of the Court and the costs of the appeal and the security entered into by the appellant shall be dealt with in such manner as the court appealed from may think fit to direct.

7. Where an appellant, who has lodged his petition of appeal, desires to withdraw his appeal, he shall present a petition to that effect to the Court. On the hearing of any such petition a respondent may apply to the Court for his costs.

NON-PROSECUTION OF APPEAL : CHANGE OF PARTIES

8. If an appellant fails to take any steps in the appeal within the time fixed for the same by these Rules, or, if no time is specified, it appears to the Registrar that he is not prosecuting his appeal with due diligence, the Registrar shall call upon him to explain his default and, if no explanation, or no explanation which appears to the Registrar to be sufficient, is offered, he may issue a summons calling upon him to show cause to the Court why the appeal should not be dismissed for want of prosecution.

9. The Registrar shall send a copy of the summons mentioned in the last specified rule to every respondent who has entered an appearance.

10. The Court may, after hearing the parties, dismiss the appeal for non-prosecution or give other directions thereon as the justice of the case may require.

11. An appellant whose appeal has been dismissed for non-prosecution may, within thirty days of the order, present a petition praying that the appeal may be restored and the Court may, after giving notice of such application to the resepondent, who had entered appearance in the appeal restore the appeal if good and sufficient cause is shown putting the appellant on terms as to costs or otherwise as it the thinks fit or pass such other order as the circumstances of the case and the ends of justice may require.

12. (a) Where at any time between the admission of an appeal and the despatch of the Record to this Court, the Record becomes defective by reason of the death, or change of status, of a party the appeal, or for any other reason, the court appealed from may, notwithstanding the admission of the appeal, on an application in that behalf made by any person interested, grant a certificate showing who, in the opinion of the said Court, is the proper person to be

substituted or entered on the Record in place of, or in addition to the party who has died, or undergone a change of status, or in regard to whom a reprentation has been made, and the name of such person shall thereupon be deemed to be so substituted or entered on the Record as aforesaid without express order of this Court.

(b) An application under sub-rule (a) above for a certificate to bring on record the legal representative of a deceased appellant or respondent shall, subject to the provisions of sections 4 and 5 of the Indian Limitation Act, 1908 (IX of 1908), be made within ninety days from the date of the death of the said appellant or respondent.

13. *Transmission by High Court of certificate for substitution.*—Where the record subsequently to its dispatch to this Court becomes defective by reason of the death or change of status of a party to the appeal, or for any other reason, the court appealed from shall, upon an application in that behalf made by any person interested, cause a certificate to be transmitted to the Registrar of Court showing who, in the opinion of the court appealed from, is the proper person to be substituted, or entered on the Record, in place of, or in addition to, the party on record.

14. *Application to bring on record legal representatives.*—An application to bring on record the legal representatives of a deceased appellant or respondent shall be made within ninety days of the death of the said appellant or respondent.

Provided that in computing the said period the time take in obtaining a certificate from the High Court shall be excluded.

14A. *Order XXII, C. P. C. to apply to appeals.*—The provisions of order XXII of the Code relating to abatement shall, so far as may applicable, apply to appeals in the Court.

15. A petition for an Order of Revivor or Substitution shall be accompanied by a certificate from the court appealed from showing who, in the opinion of the said court, is the proper person to be substituted, or entered, on the Record in place of, or in addition to, the party on record:

Provided that the Court may, if it thinks fit, dispense with the production of a certificate.

Appearance to Respondent

16. The Respondent may enter an appearance at any time between the transmission of the Record of the court appealed from and the expiry of the period fixed for lodging his statement of case.

17. The respondent shall forthwith after entering an appearance give notice thereof to the appellant.

18. Where there are two or more respondents, and only one, or some, of them enter an appearance, the Appearance Form shall set out the names of the appearing respondents.

19. Two or more respondents may, at their own risk as to costs, enter separate appearances in the same appeal.

20. A respondent who has not entered an appearance shall not be entitled to receive any notices relating to the appeal from the Registrar of the Court, nor be allowed to lodge a Case in the appeal.

ORDER XVII

Petitions Generally

1. All petitions shall consist of paragraphs numbered consecutively and shall be fairly and legibly written, typewritten or lithographed on one side of standard

petition paper, demy foolscap size, or on paper ordinerily used in High Courts for transcribing petitions with quarter margin, and endorsed with the name of the court appealed from, the full title and the Supreme Court number of the appeal to which the petition relates, or the full title of the petition (as the case may be) and the name and address of the Agent (if any) of the petitioner, or the petitioner where the petitioner appears in person. The petitioner shall file along with his petition such number of copies thereof as may be required for the use of the Court.

2. Where a petition is expected to be lodged, or has been lodged, which does not relate to any pending appeal of which the Record has been registered in the Registry or this Court, any person claiming a right to appear before this Court at the hearing of such petition may lodge a Caveat in the matter thereof, and shall thereupon be entitled to receive from the Registrar notice of the lodging of the petition, if at the time of lodging of the Caveat such petition has not yet been lodged, and, if and when the petition has been lodged, to require the petitioner to serve him with a copy of the petition and to furnish him, at his own expense, with copies of any papers lodged by the petitioner in support of his petition. The Caveator shall forthwith, after lodging his Caveat, give notice thereof to the petitioner, if the petition has been lodged.

3. Where a petition is lodged in the matter of any pending appeal, of which the Record has been registered in the Registry of this Court, the petitioner shall serve any party who has entered an appearance in the appeal, with a copy of such petition and the party so served shall thereupon be entitled to require the petitioner to furnish him, at his own expense, with copies of paper lodged by the petitioner in support of his petition.

4. A petition not relating to any appeal of which the Record has been registered in the Registry of this Court, and any other petition containing allegations of fact which cannot be verified by reference to the registered Record or any certificate or duly authenticated statement of the Court appealed from, shall be supported by affidavit. Where the petitioner prosecutes his petition in person, the said affidavit shall be sworn by the petitiner himself and shall state that, to the best of the deponent's knowledge, information and belief, the allegations contained in the petition are true. Where the petitioner is represented by an Advocate, the said affidavit may be sworn to by the petitioner, or where he is for any reason unable to do so, by some person on his behalf acquainted with the facts.

5 The Registrar may refuse to receive a petition on the grounds that it discloses no reasonable cause of appeal, or is frivolous or contains scandalous matter but the petitioner may appeal, by way of motion from such refusal to the Court.

6. As soon as a petition and all necessary documents are lodged, the petition shall thereupon be deemed to be set down.

7. Subject to the provisions of the next following rule, the Registrar shall as soon as the Court has appointed a day for the hearing of a petition, notify the, day appointed on the Court Notice Board.

8. Where the prayer of a petition is consented to in writing by the opposite party, or where a petition is of a formal and non-contentious character, the Court may, if it thinks fit, make an order thereon, without requiring the attendance of the parties, but the Registrar shall, with all convenient speed, after the Court has made its order, notify the parties that the order has been made and of the date and nature of such order.

9. A petitioner who desires to withdraw his petition shall give notice in writing to that effect to the Registrar. Where the petition is opposed, the opponent shall, subject to any agreement between the parties to the contrary, be entitled to apply to the Court for his costs; but where the petition is unopposed,

or where, in the case of an opposed petition, the parties have come to an agreement as to the costs of the petition, the petition may, if the Court think fit, be disposed of in the same way *mutatis mutandis* as a Consent Petition under the provisions of the last preceding rule.

10. Where a petitioner unduly delays bringing a petition to a hearing, the Registrar shall call upon him to explain the delay, and if no explanation is offered, or if the explanation offered is, in the opinion of the Registrar, insufficient, the Registrar may, after notifying all parties who have entered appearance, place the petition before the Court for such directions as the Court may think fit to give thereon.

11. At the hearing of a petition not more than one counsel shall be heard on a side.

ORDER XVIII

Lodging of Case and Subsequent Proceedings

1. No party to an appeal shall be entitled to be heard by the Court unless he has previously lodged his Case in the appeal ; nor shall he be allowed to inspect the Case of the opposite party or obtain a copy thereof from the Registry until he has lodged his own Case :

Provided that where a respondent who has entered an appearance does not desire to lodge a Case in the appeal, he may give the Registrar of the Court notice in writing of his intention not to lodge any Case, while reserving his right to address the Court on the question of costs.

2. The appellant shall lodge his Case within twelve weeks of his lodging the petition of appeal and the respondent shall lodge his Case within twelve weeks of the service of the petition of appeal ; provided that in expedited appeals the Statements of Case by either party shall be lodged within eight weeks of the lodging of the petition of appeal or service thereof, as the case may be.

Each party shall lodge not less than eight copies of his Case, printed or neatly typed with quarter margin, on one side of paper of the same size and quality as that used in the printing of the record in the court below.

3. (1) The Case shall consist of two parts as follows :

Part I shall consist of a concise statement of the facts of the Case in proper sequence. A list of the dates of the relevant events leading up to and concerning the litigation, in chronological order, and pedigree tables where necessary, shall be given at the end of the Part. It shall also set out the contentions of the parties and the points of law and fact arising in the appeal.

Part II shall set out the propositions of law to be urged in support of the contentions of the party lodging the Case and the authorities in support thereof. Where authorities are cited, reference shall be given to the Official Reports if available, and to the page at which the case begins and the page or pages at the particular proposition is discussed formulated. Where text books are cited, the reference shall, if possible, be to the latest available editions thereof. Where a statute, regulation, rule, ordinance or by-law is cited or relied on, so much thereof as may be necessary to the decision of the case shall be set out. At the end of the Part shall be set out a table of cases cited arranged chronologically under each point of law, and the text books and statutes cited, references being given to the pages in the Case where they are cited.

(2) The Case shall consist of paragraphs numbered consecutively. References shall be given by page and line to the relevant portions of the Record in the margin and care shall be taken to avoid, as far as possible, the reproducing in the Case of long extracts from the Record. The Case shall not travel beyond the

limits of the certificate or the special leave, as the case may be, and of such additional grounds, if any, as the Court may allow to be urged on application made for the purpose. The Taxing Officer in taxing the costs of the appeal shall either of his own motion, or at the instance of the opposite party, enquire into any unnecessary prolixity in the Case, and shall disallow the costs occasioned thereby.

4. Two or more respondents may, at their own risk as to costs, lodge separate Cases in the same appeal.

5. Each party after lodging his Case, forthwith give notice thereof to the other party.

6. The appeal shall be set down one month after the expiry of the time prescribed for the lodging the Statement of Cases by the parties. Where any party fails to lodge the Statement of Case within the time prescribed, the appeal shall subject to the provision in the proviso to Rule 1, be set down *ex-parte* against the party in default unless the Court condones the delay and grants further time to the party for lodging his Case, in which case the appeal shall be set down after the expiry of the said further time.

7. Parties who have filed their Cases shall exchange them, by handing one another, three copies of their respective Cases.

8. As soon as an appeal is set down, the appellant shall attend at the Registry and obtain eight copies of the record and Cases to be bound for the use of the Court at the hearing. The copies shall be bound in cloth or in one-fourth leather with paper sides, and six leaves of blank paper shall be inserted before the appellant's Case. The front cover shall bear a printed label stating the title and Supreme Court number of the appeal, the contents of the volume, and the name and address of the Advocates on Record. The several documents, indicated by incuts, shall be arranged in the following order :

1. Appellant's Case ;
2. Respondent's Case ;
3. Record (if in more than one part, showing the separate parts by incuts, all parts being paged at the top of the page) ;
4. Supplemental Record (if any) ; and the short title and Supreme Court number ef appeal shall also be shown on the back.

9. The appellant shall lodge the bound copies not less than ten clear days before the date fixed for the hearing of the appeal.

ORDER XIX

Hearing of Appeals

1. Subject to such directions as the Chief Justice or the Court may give from time to time, and to the provisions contained in these Rules, all appeals which are ready for hearing shall as far as possible be heard in the order in which they have been registered.

2. The date fixed for the hearing of an appeal shall be notified on the Court notice board and it shall not be necessary to notify the parties to the appeal individually of the date fixed :

Provided that where a party appears in person, notice of the inclusion of the appeal in the monthly list shall be given to such party by post.

3. Subject to the directions of the Court, at the hearing of an appeal not more than two Advocates shall be heard on one side.

4. No party shall: without the leave of the Court, rely at the hearing on any grounds not specified in the Statement of the Case filed by him.

5. Where the Court, after hearing an appeal, decides to reserve its judgment thereon, the Registrar shall notify the parties through their advocates on Record of the day appointed by the Court for the delivery of the judgment.

6. A respondent may within the time limited for appearance deliver to the Registrar and to the appellant a notice in writing consenting to the appeal, and the Court may thereupon if it thinks fit, make an order upon the appeal without requiring the attendance of the person so consenting.

ORDER XX

MISCELLANEOUS

1. The filing of an appeal shall not prevent execution of the decree or order appealed against but the Court, may, subject to such terms and conditions as it may think fit impose, order a stay of execution of the decree or order, or order a stay of proceedings, in any case under appeal to the Court.

2. A respondent may apply for the summary determination of an appeal on the ground that it is frivolous or vexatious or brought for the purpose of delay, and the Court may make such order thereon as it thinks fit.

3. A party to an appeal who appears in person shall furnish the Registrar with an address for service and all documents left at that address, or sent by registered post to that address, shall be deemed to have been duly served.

ORDER XXI

SPECIAL LEAVE PETITIONS IN CRIMINAL PROCEEDINGS AND CRIMINAL APPEALS

1. *O. XIII, to apply in special leave petitions in criminal matters :* Save as hereinafter provided, the provisions contained in Order XIII in relation to applications for special leave to appeal in Civil Proceedings shall *mutatis mutandis* to applications for special leave to appeal in criminal matters.

2. *Time for special leave petition in case involving death sentence :* A petition for special leave to appeal in a case involving a sentence of death shall be lodged in the Court within 30 days from the date of the refusal of a certificate by the High Court or within thirty days from the date of the judgment final order or sentence sought to be appealed from, as the case may be :

Provided that the Court may for sufficient cause shown extend the time.

3. *Presentation of petition through officer-in-charge of jail :* Where the petitioner is in jail he may present his petition for special leave to appeal, together with the accompanying documents, including any written arguments which he may desire to advance, to the officer-in-charge of the jail, who shall forthwith forward the same to the Registrar.

3-A. The High Court shall, on applications by a petitioner intending to apply for special leave, grant him free of cost a certified copy of the judgment sought to be appealed from.

4. *Summary rejection of petition :* As soon as practicable the Register shall place the petition and the accompanying documents so received before the Court, and the court, may, upon perusal of the papers, reject the petition summarily without hearing the petitioner in person, if it considers that there is no sufficient ground for granting leave to appeal:

Provied that where the petitioner is represented by counsel of his choice or by an *amicus curie* assigned to him by the Court, the Court shall not dismiss the petition without hearing the counsel or the *amicus curiae*, as the case may be.

5. *Time for lodging criminal appeals :* All criminal appeals under Article 132(1) and 134(1) (c) of the Constitution shall be lodged in this Court within thirty days from the date of certificate granted by the High Court, and all appeals under Article 134(1) (a) and (b) of the Constitution or under any other provision of law within thirty days from the date of the judgment, final order or sentence appealed from :

Provided that in computing the period, the time requisite for obtaining a copy of the judgment or order sought to be appealed from or of the certificate shall be excluded :

Provided further that the Court may for sufficient cause shown extend the time.

6. *Form of appeal* : The appeal shall be in the form of a petition in writing which shall be accompanied by a certified copy of the judgment or order appealed against and of the certificate.

7. *Presentation of appeal by appellant in jail :* The appellant, if he is in jail, may present his petition of appeal and the accompanying documents, including any written arguments which he may desire to advance, to the officer-in-charge of the jail, who shall forward them forthwith to the Registrar.

8. *Notice of appeal* : On receipt of the petition of appeal, the Registrar shall cause notice of the appeal to be given where the appeal is by a convicted person, to the Attorney-General for India or to the Advocate-General or the Government Advocate of the State concerned, or to both, as the case may require, and, in casses where the appeal is by the Government, to the accused, and shall also furnish the Attorney-General for India and/or the Advocate-General or the Government Advocate concerned or the accused, as the case may be, with a copy of the petition of appeal and other accompanying papers, if any.

9. *Transmission of copy of petition of appeals to High Court :* The Registrar shall thereafter send a copy of the petition of appeal and the accompanying papers, if any, to the High Court concerned for its record. The High Court shall then arrange for the printing of the record in the case and for the transmission of the printed record to the Registrar with all convenient speed. In the preparation of the printed record, the High Court may include the printed paper book prepared for its own use at an earlier stage. The record shall be printed at the expense of the appellant, unless otherwise ordered by the Court, but in appeals involving sentence of death, the record shall be printed at the expense of the Government of the State concerned.

10. *Despatch of record by High Court*: (i) As soon as the record has been got ready, the Registrar of the High Court shall despatch to the Registrar of this Court not less than fifteen copies where the appeal raises a question relating to the interpretation of the Constitution, and not less than 10 copies in other cases. (ii) In all cases involving a sentence of death, where sufficient number of copies of the High Court printed record are available, they shall be despatched to this Court along with such additional records as may be necessary, as soon as these are printed, and where the record is to be printed afresh for the Supreme Court appeal the printed record ahall be made ready and despatched to this Court within a period of sixty days after the receipt of the intimation from the Registrar of the Court of the filling of the petition of appeal.

11. *Representation of accused by Advocate at Government cost* : Where the accused person is not represented by counsel of his choice the Court may, in a proper case, direct the engagement of an Advocate at the cost of the Government. The fee of the Advocate so engaged shall be Rs. 100/- per day of the hearing.

12. *Accused may present his case and argument in writing* : Due notice shall be given to the accused of the date fixed for the hearing of the appeal. The accused person may, where he so desires, present his case by submitting his argument in writing and the Court shall consider the same at the hearing of the appeal.

13. *Direction to produce accused person*: The Court may, where it thinks fit to do so in the interests of justice, direct the production of an accused person in custody at the hearing of the appeal to enable him to argue his case or for other reasons.

14. *Transmission of copy of judgment of High Court*: After the appeal has been disposed of the Registrar shall, with the utmost expedition, send a copy of the Court's judgment or order to the High Court concerned.

15. *Stay of execution of sentence or order pending appeals*: Pending the disposal of any appeal under the Rules the Court may order that the execution of the sentence or order appealed against be stayed on such terms as the Court may think fit.

16. *No security in criminal appeals*: In criminal proceedings, no security for costs shall be required to be deposited and no court-fee, process fee, or search fee shall be charged and an accused person shall not be required to pay copying charges except for copies other than the first.

17. *Other orders of this part to apply to in criminal appeals*: Save as aforesaid, the preceding Orders in this part of these rules shall, with the necessary modifications and adaptations apply, so far as may be, to criminal appeals under this Order, but it shall not be necessary to file a statement of case in appeals under this Order.

PART III

ORIGINAL JURISDICTION

ORDER XXII

PARTIES TO SUITS

1. Two or more plaintiffs may join in one suit in whom any right to relief in respect of or arising out of the same act or transaction or series of acts or transactions is alleged to exist.

2. Two or more defendents may be joined in one suit against whom any right to relief in respect of or arising out of the same act or transaction or series of acts or transactions is alleged to exist.

3. (1) The Court may at any such stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any plaintiff or defendant improperly joined be struck out, and that the name of any plaintiff or defendant who ought to have been joined, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.

(2) No person shall be added as a plaintiff without his consent.

4. Where it appears to the Court that any causes of action joined in one suit cannot conveniently be tried or disposed of together the Court may order separate trials or make such other order as may be expedient.

6. Where it appears to the Court that any joinder of plaintiffs or defendants may embarras or delay the trial of the suit, the Court may order separate trials or make such order as may be expedient.

ORDER XXIII

PLAINTS

1. Every suit shall be instituted by the presentation of a plaint.

2. A plaint shall be presented to the Registrar, and all plaints shall be registered and numbered by him according to the order in which they are presented.

3. Every plaint shall comply with the Rules contained in Order XXVI of these Rules so far as they are applicable.

4. A plaint shall contain the following particulars :

(a) the names of the plaintiff and of the defendant ;

(b) the facts constituting the cause of action and when it arose ;

(c) the facts showing that the Court has jurisdiction ;

(d) the declaration or relief which the plaintiff claims.

5. The plaintiff shall endorse on the plaint, or annex thereto, a list of the documents (if any) which he has produced along with it and the Registrar shall sign the list if on examination he finds it to be correct.

6. The plaint shall be rejected :

(a) where it does not disclose a cause of action ;

(b) where the suit appears from the statement in the plaint to be barred by any law.

7. Where a plaint is rejected the Court shall record an order to that effect with the reasons for the order.

8. The rejection of the plaint shall not of itself preclude the plaintiff from presenting a fresh plaint in respect of the same cause of action.

9. Where a plaintiff sues upon a document in his possession or power, he shall produce it to the Registrar when the plaint is presented and shall at the same time deliver the document or a copy thereof to be filed with the plaint.

10. Where the plaintiff relies on any other documents (whether in his possession or power or not) as evidence in support of his claim, he shall enter such documents in a list to be added or annexed to the plaint.

11. Where any such document is not in the possession or power of the plaintiff, he shall, if possible, state in whose possession or power it is.

12. A document which ought to be produced in Court by the plaintiff when the plaint is presedented, or to be entered in the list to be added or annexed to the plaint, and which is not produced or entered accordingly shall not, without the leave of the Court, be received in evidence at the hearing of the suit.

ORDER XXIV

ISSUE AND SERVICE OF SUMMONS

1. When a suit has been duly instituted a summons shall be issued to the defendant to appear and answer the claim.

2. Every summons shall be signed by the Registrar, and shall be sealed with the Seal of the Court.

3. Every summons shall be accompanied by a copy of the plaint.

4. Every summons shall be served by being sent by registered post to the Attorney-General for India or the Advocate-General for the State, as the case may be, or to an Advocate on Record of the defendant empowerd to accept service.

5. There shall be endorsed on every summons a notice requiring the defendant to enter an appearance within twenty-eight days after the summons has been served,

6. A defendant shall enter the appearance by filing in the Registry a memorandum in writing containing the name and place of business of his Advocate on Record, if any, and in default of appearance being entered within the time mentioned in the summons, or as hereinafter provided, the suit may be heard *ex-parte*,

7. The defendant shall forthwith give notice of his having entered an appearance to the plaintiff.

8. The plaintiff shall within fourteen days after the defendant has entered an appearance take out a summons for directions returnable before the Judge in Chambers, and the Judge shall on his hearing of the summons give such directions with respect to pleadings, interrogatories, the admission of documents and facts, the discovery, inspection and production of documents and such other interlocutory matters as he may think expedient.

ORDER XXV

WRITTEN STATEMENT, SET-OF AND COUNTER-CLAIM

1. It shall not be sufficient for a defendant in his written statement to deny generally the facts alleged by the plaintiff but he shall deal specifically with each allegation of fact which he does not admit the truth, except damage.

2. Where a defendant denies an allegation of fact he shall not do so evasively but shall answer the point of substance.

3. Each allegation of fact in the plaint, if not denied specifically or by necessary implication, or not expressly stated to be not admitted in the pleading of the defendant, shall be taken to be admitted, but the Court may in its discretion require any fact so admitted to be proved otherwise than by such admission.

4. Where the defendant claims to set-off against a demand by the plaintiff any ascertained sum of money, he may in his written statement, but not afterwards without the leave of the Court state the grounds of his claim and the particulars of the debt sought to be set off.

5. The written statement containing the particulars mentioned in the last preceding Rule shall have the same effect as a plaint in a cross-suit so as to enable the Court to pronounce a final judgment in respect both of the original claim and of the set-off.

6. The Rules relating to a written statement by a defendant shall apply to a written statement by a plaintiff in answer to a claim of set-off.

7. No pleading subseduent to the written statement of a defendant other than by way of defence to a set-off shall be presented except by the leave of the Court and upon such terms as the Court may think fit, but the Court may at any time require a written statement or additional written statement from any of the parties and may fix a time for presenting the same.

8. Where any part from whom a written statement is so required fails to present the same within the time fixed by the Court, the Court may pronounce judgment against him, or make such orders in relation to the suit as it thinks fit.

9. The defendant, in addition to his right of pleading a set off, may set up by way of counter claim against the claims of the plaintiff any right or claim in respect of a cause of action accruing to him either before or after the filing of the suit but before he has delivered has defence and before the time limited for delivering his defence has expired, whether that counter claim sounds in damages

or not, and the counter claim shall have the same effect as a cross suit, so as to enable the Court to pronounce a final judgment in the same suit, both on the original claim and on the counter claim.

10. The Court may if in its opinion the counter-claim cannot be disposed of in the pending suit or ought not to be allowed, refuse permission to the defendant to avail himself thereof, and require him to file a separate suit.

ORDER XXVI

PLEADINGS GENERALLY

1. In this Order 'pleading' means plaint or written statement.

2. Every pleading shall contain, and contain only, a statement in a concise form of the material facts on which the party pleading relies, but not the evidence by which those facts are to be proved, nor any argumentative matter, and shall be divided into paragraphs nukbered consecutively.

3. Dates, sum and numbers shall be expressed in figures.

4. A further and better statement of the nature of the claim or defence, or further and better particulars of any matter stated in any pleading may in all cases be ordered, upon such terms as to costs and otherwise, as may be just.

5. Wherever the contents of any document are material, it shall be sufficient to state the effect thereof as briefly as possible, without setting out the whole or any part thereof, unless the precise words of the document or any part thereof are material.

6. Every pleading shall be signed by, or by an Advocate on Record on behalf of the Attorney General for India or by, or by an Advocate on Record on behalf of the Advocate General for the State, as the case may be.

7. The Court may at any stage of the proceedings order to be struck out or amended any matter in any pleading which may be unnecessary or scandalous or which may tend to prejudice or embarrass or delay the trial of the suit, or which contravenes any of the provisions of this Order.

8 The Court may at any stage of the proceedings allow either party to amend his pleadings in such manner and on such terms as may be just, but only such amendments shall be made as may be necessary for the purpose of determining the real question in controversy between the parties.

9. If a party who has obtained an order for leave to amend does not amend accordingly within the time limited for that purpose by the order, or if not time is thereby limited then within fourteen days from the date of the order, he shall not be permitted to amend after the expiration of such limited time or of such fourteen days, as the case may be, unless the time is expended by the Court.

10. Amendments of pleadings made only for the purpose of rectifying a clerical error may be made on an order of the Registrar without notice, but unless otherwise ordered a copy of the order shall be served on all other parties.

ORDER XXVII

DISCOVERY AND INSPECTION

1. Order XI of the First Schedule to the Code shall apply with respect to discovery and inspection in suits instituted before the Court, except Rules 5 and 23 of that Order.

2. Where the Court has made an order allowing one party to deliver interrogatories to the other, those interrogatories shall be answered by such persons as the Court may direct,

3. No application for leave to deliver interrogatories shall be made by the defendant until after he has filed his written statement.

4. After an order has been made for the delivery of interrogatories one set of the interrogatories, as allowed, shall be annexed and served with the order upon the person to be interrogated.

5. The Court may, for sufficient reason, allow any affidavit to be sworn, on behalf of the party from whom discovery, production or inspection is sought, by any person competent to make the same.

6. Where any document is ordered to be deposited in Court a copy of the order and a schedule of the document shall be left in the Registry at the time when the deposit is made.

7. When the purpose for which any documents have been deposited in Court is satisfied, the party by whom they were deposited may, pending the suit, have them delivered out to him, if he has the consent in writing of the other party, or an order of the Court.

ORDER XXVIII

ADMISSIONS

Order XII in the First Schedule to the Code with respect to admissions shall apply.

ORDER XXIX

SUMMONING AND ATTENDANCE OF WITNESSES

1. The provisions of sections 28 and 32 of the Code shall apply to summons to give evidence or to produce documents under these Rules.

2. Order XVI in the First Schedule to the Code with respect to the summoning and attendance of witnesses shall apply, with the exception of the provision to sub-rule (3) of rule 10, and the words (a) within the local limits of the Court's ordinary original jurisdiction, or (b) with such limit but in rule 19.

ORDER XXX

ADJOURNMENTS

Order XVII in the First Schedule to the Code with respect to adjournments shall apply, with the substitution in rule 2 of the words 'in such manner as it thinks just' for the words 'in one of the modes directed in that behalf by Order IX, or make such other order as it thinks fit'.

ORDER XXXI

HEARING OF THE SUIT

1. Rules 1, 2, 3, 16, 17 and 18 Order XVIII in the First Schedule to the Code with respect to the hearing of suits and examination of witnesses shall apply.

2. Witnesses in attendance shall be examined orally in open Court and their evidence taken down in shorthand in the form of question and answer by such officers of the Court as may be appointed for the purpose.

3. The transcript of the shorthand note shall be signed by the officer recording the note and shall be deemed the deposition of the witness and shall form part of the record.

4. The party to any suit or matter in which the evidence has been taken in shorthand, and the witness whose evidence has been taken, shall be entitled upon payment of the prescribed fee to be furnished with a certified copy of the transcript.

ORDER XXXII

WITHDRAWAL AND ADJUSTMENT OF SUITS

1. Rules 1, 2 and 3 of Order XXIII in the First Schedule to the Code with respect to the withdrawal and adjustment of suits shall apply.

2. No new suit shall be brought in respect of the same subject-matter until the terms or conditions, if any, imposed by the order permitting the withdrawal of a previous suit or giving leave to bring a new suit have been compiled with.

ORDER XXXIII

PAYMENT INTO COURT

Order XXIV in the First Schedule to the Code with respect to payment into Court shall apply.

ORDER XXXIV

SPECIAL CASE

Rules 1, 3 and 5 of Order XXXVI in the First Schedule to the Code with respect to procedure by way of Special Case shall apply, except the words 'which would have jurisdiction to entertain a suit, the amount or value of the subject-matter of which is the same as the amount or value of the subject-matter of the agreement' in sub-rule (1) of rule 3, the words 'claiming to be interested as plaintiff or plaintiffs' to the end of sub-rule (2) of rule 3 ; and the words 'and upon the judgment so pronounced a decree shall follow' in sub-rule (2) of rule 5.

PART IV

ORDER XXXV

APPLICATIONS FOR ENFORCEMENT OF FUNDAMENTAL RIGHTS

(Article 32 of the Constitution)

1. (1) Every application under Article 32 of the Constitution shall be by a petition and shall be heard by Division Court of not less than five Judges provided that a petition under Article 32 which does not raise a substantial question of law as to the interpretation of the Constitution may be heard and decided by a Division Court of less than five Judges and during the vacation by the Vacation Judge sitting singly.

(2) All interlocutory and miscellaneous applications connected with a petition under Article 32, may be heard and decided by a Divisional Court of

less than five Judges, and during the vacation, by the Vacation Judge sitting singly, notwithstanding that in the petition a substantial question of law as to the interpretation of the Constitution is raised.

2. No court-fees shall be payable on petitions for *habeas corpus* or other petition under Article 32 of the Constitution arising out of criminal proceedings, or in proceedings connected with such petitions.

Habeas Corpus

3. A petition for a writ of *habeas corpus* shall be accompanied by an affidavit by the person restrained stating that the petition is made at his instance and setting out the nature and circumstances of the restraint :

Provided that where the person restrained is unable owing to the restraint to make the affidavit, the petition shall be accompanied by an affidavit to the like effect made by some other person acquainted with the facts, which shall state the reason why the person restrained is unable to make the affidavit.

The petition shall state whether the petitioner has moved the High Court concerned for similar relief and if so, with what result.

4. The petition shall be posted before the Court for preliminary hearing, and if the Court is of the opinion that a *prima facie* case for granting the petition is made out, a rule *nisi* shall issue calling upon the person or persons against whom the order is sought to appear on a day to be named therein to show cause why such order should not be made and at the same time to produce in Court the body of the person or persons alleged to be illegally or improperly detained then and there to be dealt with according to law.

5. On the return day of such rule or any day to whom the hearing thereof may be adjourned, if no cause is shown or if cause is shown and disallowed, the Court shall pass an order that the person or persons improperly detained shall be set at liberty. If cause is shown and allowed, the rule shall be discharged. The order for release made by the Court, shall be a sufficient warrant to any goaler, public official, or other person for the release of the person under restraint.

6. In disposing of any such rule, the Court may in its discretion make such order for costs as it may consider just.

Mandamus, Prohibition, Certiorari, Quo-Warranto and other Direction or Orders.

7. A petition for a direction or order, or writ including writs in the nature of *mandamus, prohibition, quo-warranto* or *certiorari*, shall set out the name and description of the petitioner, the nature of the fundamental right infringed, the relief sought and the grounds on which it is sought and shall be accompanied by an affidavit verifying the facts relief on, and at least six copies of the petition and affidavit shall be lodged in the Registry. The petition shall also state whether the petitioner has moved the High Court concerned for similar relief and, if so, with what result.

8. The petition shall be posted before the Court for preliminary hearing and orders as to the issue of notify to the respondent. Upon the hearing the Court, if satisfied that no fundamental right guaranteed by the Constitution has been infringed, or that the petition is otherwise untenable shall dismiss the petition and if not so satisfied, shall direct a rule *nisi* to issue to the respondent calling upon him to show cause why the order sought should not be made and shall adjourn the hearing for the respondent to appear and be heard.

9. Upon making the order for a rule *nisi*, the Court may, if it thinks fit, grant such *ad interim* relief to the petitioner as the justice of the case may require upon such terms if any as it may consider just and proper.

10. Unless the Court otherwise orders, the rule *nisi* together with a copy of the petition and of the affidavit in support thereof shall be served on the respondent not less than 21 days before the date fixed for the learning of the rule. The rule shall be served on all persons directly affected and on such other persons as the Court may direct.

Affidavits in oppositions shall be field in the Registry not later than 4 days before the date appointed for the hearing, and affidavits in reply shall be filed not later than 2 P.M on the day preceding the day of hearing. Copies of affidavits in opposition or reply shall be served on the opposite party or parties, and the affidavits shall not be accepted in the Registry unless they contain an endorsement of service signed by such party or parties. Every party to the proceeding shall supply to any other party on demand and on payment of the proper charges copies of any affidavit filed by him.

11. On the hearing of the rule, any person who desires to be heard in opposition and appears to the Court to be a proper persons to be heard shall be heard, notwithstanding that he has not been served with the rule, and shall be liable for costs in the discretion of the Court if the order shall be made.

12. The Court may in these proceedings impose such terms as to costs and as to the giving of security as it thinks fit.

13. The provisions of Order XVII relating to petitions shall, so far as may be applicable, apply to petitions under this Order.

ORDER XXXV-A

APPLICATIONS FOR TRANSFER OF CRIMINAL PROCEEDINGS UNDER SECTION 527 OF THE CRIMINAL PROCEDURE CODE

Notice of every application under section 527 of the Code of Criminal Procedure shall be given to the Attorney-General for India, the Advocate-General of the State in which the case or appeal sought to be transferred is pending, to the accused person where he is not the applicant, and to such other parties interested as the Court may think fit to direct.

PART V

ORDER XXXVI

SPECIAL REFERENCE UNDER ARTICLE 143 OF THE CONSTITUTION

1. On the receipt by the Registrar of the order of the President referring a question of law or fact to the Court, the Registrar shall give notice to the Attorney-General for India to appear before the Court on a day specified in the notice to take the directions of the Court as to the parties who shall be served with notice of the Special Reference, and the Court may, if it considers it desirable, order that notice of the Special Reference, shall be served upon such parties as may be named in the order.

2. Subject to the directions of the Court the notice shall require all such parties served therewith as desire to be heard at the hearing of the Special Reference to attend before the Court on the day fixed by the order to take the directions of the Court with respect to statements of facts and arguments and with respect to the date of the hearing.

3 Subject to the provisions of this Order, the procedure on a Special Reference shall follow as nearly as may be the procedure in proceedings before the

Court in the exercise of its original jurisdiction, but with such variations as may appear to the Court to be appropriate and as the Court may direct.

4. After the hearing of the Special Reference, the Registrar shall transmit to the President the Report of the Court thereon.

5. The Court may make such order as it thinks fit as to the costs of all parties served with notice under these Rules and appearing at the hearing of the Special Reference.

PART VI

ORDER XXXVII

REFERENCES UNDER ARTICLE 317 (1) OF THE CONSTITUTION

1. On receipt by the Registrar of the order of the President referring to the Court a case for inquiry under Article 317 (1) of the Constitution, the Registrar shall give notice to the Chairman or member of the Public Service Commission concerned and to the Attorney-General for India or the Advocate-General of the particular State to appear before the Court on a day specified in the notice to take the directions of the Court in the matter of the inquiry. A copy of the charges preferred against him shall be furnished to the respondent along with the notice.

2. The Court may summon such witnesses as it considers necessary.

3. After the hearing of the Reference, the Registrar shall transmit to the President the Report of the Court.

4. No court-fees or process fees shall be payable in connection with any reference dealt with by the Court under this Order.

PART VI-A

ORDER XXXVII-A

ELECTION PETITIONS UNDER PART III OF THE PRESIDENTIAL AND VICE-PRESIDENTIAL ELECTIONS ACT, 1952 (ACT NO. XXXI OF 1952)

1. In this Order, unless the context or subject matter otherwise requires :-
   (a) 'the Act' means the Presidential and Vice-Presidential Elections Act; 1952 ;
   (b) the words defined in section 2 and 13 of the Act shall have the respective meanings assigned to them by those sections.

2. An application calling in question an election shall only be by a petition made and presented in accordance with the provisions of this Order.

3. The petition shall be made on a court-fee stamp of the value of rupees 250/- and shall be signed by the petitioner, or all the petitioners if there are more than one, or by a duly authorised Advocate on Record of the Court, on his or their behalf.

4. The petition shall be divided into paragraphs, numbered consecutively each paragragh being confined to a distinct portion of the subject, and shall be printed or typed legibly on one side of standard petition-paper, demy-foolscape size, or on paper of equally superior quality.

5. The petition shall state the right of the petitioner under the Act to petition the Court and briefly set forth the facts and grounds relied on by him to sustain the relief or reliefs claimed by him.

6. The allegations of fact contained in the petition shall be verified by an affidavit to be made personally by the petitioner or by one of the petitioners, if more than one :

Provided that where the petitioner is unable to make such affidavit by reason of absence, illness or other sufficient cause it may with the sanction of the Judge in Chambers to be given at the time of the presentation of the petition, be made by any person duly authorised by the petitioner and competent to make the same.

7. A petition calling in question an election may be presented on one or more of the grounds specified in sub-section (1) of section 18 and section 19 of the Act, by any candidate at such election, or by ten or more electors who may join together as petitioners.

8. Where the petitioner claims a declaration under clause (a) of section 16 of the Act, he shall implead the returned candidate as the respondant, and where he claims a declaration under clause (b) of the said section, he shall implead as respondents all candidates, other than himself, duly nominated at the election.

9. The petition may be presented at any time after the date of publication of the declaration containing the name of the returned candidate at the election under section 12 of the Act, but not later than thirty days from the date of such publication.

10. The presentation of the petition shall be made by delivering it to the Registrar of the Court in his Chambers in the Court house, unless it is presented before the Judge in Chambers under Rule 6.

11. The petitioner shall also lodge, along with the petition, at least twelve copies of the petition and of all documents which accompany it.

12. Upon the presentation of the petition, the petitioner, shall deposit a sum of Rs. 2,000 in cash with the Registrar or Deputy Registrar of the Court as security for the payment of all costs that may become payable by the petitioner.

13. Upon the presentation of the petition, the Judge in Chambers, or the Registrar, before whom it is presented, may give such directions for service of the petition and advertisement thereof as he thinks proper and also appoint a time for the hearing of the petition.

14. Unless otherwise ordered, the notice of the presentation of the petition accompained by a copy of the petition, shall within five days of the presentation thereof or within such further time as the Court may allow, be served by the petitioner or his Advocate on Record on the respondent or respondents, the Secretary to the Election Commission, the Returning Officer and the Attorney General for India. Such service shall be effected personally or by registered post, as the Court or Registrar may direct. Immediately after such service the petitioner or his Advocate on Record shall file with the Registrar an affidavit of of the time and manner of such service.

15. Unless dispensed with by the Judge in Chambers or the Registrar, as the case may be, notice of the presentation of the petition shall be published in the Gazette of India and also advertised in newspapers at the expense of the petitioner or petitioners, fourteen clear days before the date appointed for the hearing thereof in such manner as the Court or the Registrar may direct.

16. Every elector shall on payment of the usual fees, be entitled, within twenty four hours after such payment, to be furnished by the petitioner for his Advocate or Record with a copy of the petition and of the affidavit in verification

thereof and shall also be entitled upon payment of the prescribed fees to obtain copies from the Court.

17. A person on whom the notice of the presentation of the petition has been served or any other candidate or an elector who intends to appear on the hearing of the petition shall leave with or send by registered post to, the petitioner or his Advocate on Record, notice of such intention signed by him or his Advocate on Record, if any. Such notice shall be served or if sent by registered post, shall be posted in time to reach the addressee not later than two clear days before the day appointed for the hearing of the petition. No person who has failed to comply with this Rule shall be allowed to appear on the hearing of the petition without the leave of the Court.

18. An affidavit intended to be used by a person other than the petitioner either in support of the petition or in opposition to the same shall be filed not less than five days before the date fixed for the hearing thereof and notice of the filing thereof shall be given to the petitioner or his Advocate on Record on the day on which the affidavit is filed. If any person fails to comply with this Rule the affidavit, unless the Court otherwise directs, shall not be used at the hearing of the petition.

19. An affidavit intended to be used in reply to an affidavit filled in opposition to, or in support of, the petition shall be filed not less than two days before the date fixed for the hearing of the petition. Notice of such filing shall be given forthwith to the person by whom the affidavit in opposition to, or in support of, the petition, as the case may be, was filed or to his advocate on Record.

20. Every petition calling in question an election shall be posted before and he heared and disposed of by a Bench of the Court consisting of not less than five Judges.

21. The petition shall not be withdrawn, save with the leave of the Court to be obtained upon application made for the purpose by notice of motion.

22. Where there are more petitioners than one, no application to withdraw a petition shall be made except with the consent of all the petitioners given in writing.

23. An application for leave to withdraw a petition which has been advertised in accordance with provisions of Rule 15 thereof shall not be heard at any time before the date fixed in the advertisement for the hearing of the petition.

24. No application for withdrawal shall be granted if in the opinion of the Court such application has been induced by any extraneous or improper bargain or consideration.

25. When a petitioner/petitioners appliers/apply for leave to withdraw his/ their petition or asks/ask that it be dismissed or that the hearing thereof be adjourned without mentioning sufficient cause or fails/fail to appear in support thereof or if appearing does/do not apply for an order in terms thereof or if for any other sufficient reason the Court thinks so to do, the Court may, upon such terms as it thinks just, make an order permitting the petitioner/petitioners to withdraw or dismissing the petitioner/petitioners from the petition for default and may, upon such terms as it thinks just, substitute as petitioner/petitioners any other candidate or any other ten electors who in its opinion would have a right to present a petition and is/are desirous of prosecuting the petition already admitted.

26. If no order for substitution of a new petitioner or petitioners be made by the Court under the last proceding Rule but the Court only permits the withdrawals of the petition, or dismisses the petitioner/petitioners from the petition, notice of the order of withdrawal of the petition or dismissal of the petitioner/petitioners shall be published by the Registrar in the Gazette of India and in the newspapers in which the original petition had been advertised under

Rule 15 and the Court may, on the application made within fourteen days or the publication or such notice in the Gazette of India by any other candidate or another ten elector who might himself or themselves have been a petitioner or petitioners, make an order upon such terms as it thinks fit, substituting such petitioner or petitioners in place of the petitioner or petitioners withdrawing or not appearing at the hearing or not proceeding with the petition. It no such application is made within the time aforesaid or, if made, the Court does not think fit to grant the same, the original petition shall stand dismissed.

27. Where the Court allows candidate or ten electors to be substituted as petitioner or petitioners under Rule 25 or 26, the Court shall appoint a date for the hearing of the petition and such substituted petitioner or petitioners shall within seven days from the making of the order file a clean copy of the petition with such consequential amendments as may be necessary by reason of the order of substitution therein shall also file an affidavit verifying such amendments. The amended petition shall be treated as the petition for calling in question the election.

28. Upon hearing the application for withdrawal or at the time of making an order for substitution, the Court may, if it thinks fit, by order direct that amount deposited by the original petitioner as security for the costs of the respondent or respondents be applied in payment of the costs incurred by him or them upto the date of the substitution of the new petitioners so far as it may be necessary, and the balance, if any, shall be refunded to the original petitioner or petitioners within seven days from the date of the order of substitution or such further time as the Court may allow.

29. Unless otherwise ordered by the Court, the substituted petitioner or petitioners shall deposit with the Registrar sum of Rs. 2,000 as and by way of security for the costs of the repondent or respondents.

30. An election petition shall abate by the death of a sole petitioner or in case of several petitioners on the death of the surviver of them :

Provided that there shall be no abatement after the hearing of the petition has been concluded.

31. The abtement of a petition shall not affect the liability of the amount deposited by the petitioner as security for costs or the estate of the petitioner or petitioners for the payment of costs previously incurred

32. On the abtement of a petition under Rule 30, notice of such abatement having taken place shall be published by the Registrar in the Gazette of India and the newspapers in which the original petition had been advertised and the Court may on the application made within fourteen days of the publication of such notice in the Gazette of India by any other candidate or another ten electors who might himself or themselves have been a petitioner or petitioners make an order, upon such terms as it thinks fit, substituting him or them in the place original petitioner or petitioners and the prescribed in Rule 27 and the provisions of Rule 29 shall apply in relation to the substituted petitioner or petitioners.

33. If before the conclusion of the hearing of an election petition any contesting respondent dies or gives notice that he does not intend to oppose the petition and there is no other respondent who is opposing the petition, the Registrar shall cause a notice of such facts to be published in the Gazette of India and the newpapers in which the original petition had bee advertised and any candidate or ten electors who might have been a petitioner or petitioners may, within fourteen days after such publication, apply to be substituted in the place of the respondent dying or not proceeding with his opposition to oppose the petition and the Court may make such order upon such terms as it thinks fit.

34. Subject to the provisions of this Order or any special order or direction of the Court, the procedure on an election petition shall follow, as nearly as may be, the procedure in proceedings before the Court in the exercise of its original Jurisdiction.

35. At the conclusion of the hearing of the election petition, the Court shall make an order at once or on some future day of which due notice shall be given by the Registrar to all persons who appeared at the hearing of the petition.

36. After the orderof the Court has been announced, the Registrar shall send a copy thereof to the Central Government for publication in the Official Gazette.

PART VII

ORDER XXXVIII

REVIEW

1. The Court may review its judgment or order, but no application for review will be entertained in a civil proceeding except on the grounds mentioned in Order XLVII, rule 1, of the Code, and in a criminal proceeding except on the ground of an error apparent on the face of the record.

2. An application for review shall be by a petition, and shall be filed within 30 days from the date of the judgment or order sought to be reviewed. It shall set out clearly the grounds for review and shall, unless otherwise ordered by the Court, be accompanied by a certificate from the Advocate who appeared at the hearing of the case for the party seeking review or, where the party appeared in person, from any Advocate of this Court, that it is supported by proper grounds. The certificate shall be in the form of a reasoned opinion.

3. The application for review shall be posted before the Court for preliminary hearing and orders as to the issue of notice to the opposite party. Upon such hearing, the Court may either dismiss the application, or direct notice to the opposite party and adjourn the hearing for such party to be heard. An application for Review shall as far as practicable be posted before the same Judge or Bench of Judges that delivered the Judgment or order sought to be reviewed.

4. Where on an application for Review the Court reverses or modifies its former decision in the case on the ground of mistake of law or fact, the Court may, if it thinks fit in the interests of justice to do so, direct the refund to the petitioner of the Court fee paid on the application in whole or in part, as it may think fit.

PART VIII

ORDER XXXIX

COSTS

1. Subject to the provisions of any Statute or of these Rules, the costs of or incidental to all proceedings shall be in the discretion of the Court. Unless the Court otherwise orders intervener shall not be entitled to costs.

2. Where it appears that the hearing of any suit or matter cannot conveniently proceed by reason of the neglect of the Advocate on Record of any party to attend personally, or by some proper person on his behalf, or of his omission to deliver any paper necessary for the use of the Court which ought to have been delivered, the Advocate on Record shall personally pay to all or any of the parties such costs as the Court may think fit to award.

ORDER XL

TAXATION

1. The Registrar, or such other officer as the Chief Justice may appoint for the purpose, shall be the Taxing Officer of the Court.

2. The Taxing Officer shall allow all such costs, charges and expenses as appear to him to have been necessary or proper for the attainment of Justice or for defending the rights of any party, and shall not allow any costs, charges and expenses which appear to him to have been incurred or increased unnecessarily or through negligence or mistake.

3. The Court may, in any proceeding where costs are awarded to any party, direct payment of a sum in gross in lieu of taxed costs, and may direct by and to whom that sum shall be paid.

4 Where in the opinion of the Taxing Officer a fee ought to be allowed for any matter not provided for in these Rules or a question arises in taxation on which he considers it necessary to obtain the directions of the Chamber Judge the Taxing Officer may refer such matter to the Chamber Judge for orders.

5. Where the Taxing Officer is of opinion that any costs have been injuriouly or unnecessarily occasioned by the negligence or improper conduct of any Advocate on Record, he shall not allow any charge for the same without the leave of the Court.

6. The Taxing Officer shall without delay bring to the notice of the Chamber Judge any wrong charge which appears to him to have been wilfully made in any bill of costs.

7. Every bill of costs lodged for taxation shall specify the exact number of folios contained in the bill lodged.

8. Every bill of costs shall be properly dated throughout and shall show in a column for the purpose the money paid out of pocket.

9. Every bill of costs shall be certified by the signature of the Advocate on Record in the case.

10. The fees for taxation and registration of every bill of costs shall be paid in court-fee stamps when the bill is lodged for taxation.

11. Every bill of costs shall, wherever possible, be accompained by vouchers, and every item of disbursement and the cause thereof shall be distinctly specified, and no payment out of pocket shall be allowed except on production of the necessary voucher, or in the case of Advocate's fee, without the signature of the Advocate that the fee has been paid:

Provided that in the case of the Attorney General or the Solicitor General, or the Advocate-General of any State, or other Covernment Advocate, appearing for the Government, and in any case where the Chamber Judge so directs, the fee may be allowed without the production of a certificate that the fee has been paid.

12. Within six weeks from the date of the judgment or order awarding costs, or within such further time not exceeding two weeks as the Taxing Officer may for good cause allow the party to whom the costs have been awarded shall lodge in the Registry the bill of costs and vouchers. He shall also serve on the opposite party a copy of the bill of costs and file in the Registry proof of such service. The Taxing Officer shall fix a date for the taxation of the bill and shall notify the parties of the date fixed.

13. A bill of costs presented out of time shall be returned to the party and the Taxing Officer shall not receive or tax the same except by order of the Chamber Judge.

14. Except as otherwise provided in these Rules or by any law for the time being in force, the fees set out in the Second and Fourth Schedules to these Rules may be allowed to Advocates and officer of Court respectively.

15. No retaining fee to an advocate shall be allowed on taxation as between party and party.

16. Where an Advocate appears for different parties in the same suit, appeal or matter, only one set of fees shall be allowed, unless the Court otherwise orders.

17. Where two or more appeals arising out of a single proceeding are heard together and costs are awarded in both or all of them, only one set of Advocate's fee shall be allowed for the hearing, unless the Court or the Chamber Judge otherwise directs.

18. In defended appeals, suits and references under Arricles 143 and 317(1) of the Constitution, the first day's hearing fee shall be allowed in full as per the Schedule, for the first four and a half hours of the hearing or part thereof, subject to the provisions contained in Rules 20 and 21 hereunder.

19. No refresher shall be allowed unless the hearing has lasted for more than four and a half hours, and the Taxing Officer shall have discretion to reduce the refresher or to allow a refresher having regard to the duration of the hearing after the first four a and a half hours.

20. Where the hearing of a part-heard case is held up on account of the Court being occupied with any miscellaneous matters, the time taken in the hearing of such miscellaneous matters shall be taken into considideration by the Taxing Officer for purpose of a refresher.

21. In cases involving less than Rs.20,000 in value, the Taxing Officer shall have discretion to reduce the fees including the first day's hearing fee and the 'acting' fee, suitably according to the nature of the case.

22. Where an appeal is compromised prior to its being set down for hearing, the fees to be allowed to Advocate under item 1 of Part I of Schedule II shall be half the amounts specified therein subject to the terms of the compromise.

23. The fees provided in items 3 to 8 of Part I of the Second Schedule shall be subject to reduction in the discretion of the Taxing Officer according to the nature of the case.

24. Where a dispute arises between the Advocate on Record and his client as to the fees and charges payble to the Advocate, either party may apply to the Chamber Judge for an order to have the bill taxed and, on an order for taxation being made, the Taxing Officer may proceed to tax the bill. The application, when made by the Advocate, shall be accompanied by a copy of the bill sought to be taxed.

Provided that where the client has express his consent in writing to the taxation of costs between himself and his Advocate on Record in any proceeding, the Advocate may present his bill of cost in that proceeding for taxation without an order of the Chamber Judge, and the Taxing Officer shall thereupon proceed to tax the bill.

25. In every case of taxation between Advocate and his client the client shall be duly summoned by the Taxing Officer to attend the taxation, and the summons shall be served on the client at least two weeks prior to the date fixed for taxation.

26. Subject to any agreement in writing to the contrary, the Rules regulating the taxation of costs between party and party shall be applicable as for as may be to taxation between advocate and client.

27. No agreement between the Advocate on Record and his client to pay fees higher than those prescribed in the Second schedule shall be recognised unless the same has been recorded in writing and is signed by the client and has been filed before the commencement of the hearing or within such further time as the Chamber Judge may allow.

28. Where the Taxing officer is of the opinion that any such agreement filed as aforesaid is unfair or unreasonable, he may require the opinion of the Chamber Judge to be taken thereon and the Judge may make such order as he may think just, and the taxation shall proceed in accordance with such order:

Provided that where the fees payable by the client personally or out of a fund belonging entirely to him, any fees actually paid by the Advocate on Record to the Senior or other Advocate in excess of the fees prescribed in the Schedule with the previous written consent of the client, shall not be called in question, if such consent has been filed prior to the commencement of the hearing or within such further time as the Chamber Judge may allow.

29. Where the amount of a bill of costs between Advocate and client is reduced by 1/6th or more, the Advocate's fee for attending taxation shall be disallowed.

30. An Advocate whose bill against his client has been taxed may apply to the Chamber Judge for an order against his client or his legal representative for payment of the sum allowed on taxation or such sum thereof as may remain due to him. The order so made may be transmitted for execution to such court as the Chamber Judge may direct.

31. Any party who is dissatisfied with the allowance or disallowance by the Taxing Officer of the whole or any part of the items in a bill of costs may apply to the Taxing Officer to review the taxation in respect thereof.

32. An application for review shall be made within a week from the date of the passing of the bill in the Taxing office and four days' notice thereof shall be given to the other party.

33. Objections in writing specifying concisely the items or parts of the bills objected to and the grounds for the objections shall be served with the notice on the other party, and a copy thereof shall at the same time be carried in before the Taxing Officer.

34. Objections which were not taken in at the time of the taxation shall not be taken at the stage of review, unless allowed by the Taxing Officer.

35. Upon application to review his order, the Taxing Officer shall reconsider his taxation upon the objections carried in and may, where he thinks fit, receive further evidence in respect thereof, and shall state in a certificate the grounds of his decision thereon and any special facts or circumstances relating thereto.

36. Any party dissatisfied with the decision of the Taxing Officer on review may, not later than seven days from the date of the decision, or within such further time as the Taxing Officer or the Chamber Judge may allow, apply to the Chamber Judge for an order to review the decision of the Taxing Officer and the Chamber Judge may thereupon make snch order as may seem just.

37. No evidence shall be received by the Chember Judge upon the review of the Taxing Officer's decision which was not before the Taxing Officer when he taxed the bill or reviewed his taxation unless the Chember Judge otherwise directs.

38. The certificate of the Taxing Officer by whom any bill has been taxed shall unless it is set aside or altered by the Chember Judge, be final as to the amount of the costs covered thereby.

39. The allowances to be made to witnesses *per diem* shall be such as the Taxing Officer may think reasonable having regard to the profession or status of the witness.

40. Witnesses residing more than five miles from the place where the Court sits shall be allowed travelling expenses according to the sums reasonably and actually paid by them and shall also be allowed such sum for substance money and carriage hire as the Taxing Officer, having regard to the daily allowances allowed under Rule 39, considers reasonable.

41. Every person summoned to give evidence shall have tendered to him with the summons a reasonable sum for his travelling expenses (if any) and for the first day's attendance and shall, if obliged to attend for more than one day, be entitled, before giving his evidence, to claim from the party by whom he has been summoned the appropriate allowances and expenses for each additional day that he may be required to attend.

42. Witnesses who have not been paid such reasonable sums for their expenses as the Court allows by its Rules may apply to the Court at any time in person to enforce the payment of such sum as may be awarded to them.

43. For the purposes of these Rules, a folio shall be deemed to consist of two hundred words ; seven figures shall be counted as one word ; and more than half a folio shall be reckoned as a folio.

44. When the costs of any proceeding which terminated prior to the 26th of January, 1954, have to be taxed, such costs shall be taxed in accordance with the taxation rules in force prior to the said date.

PART IX

MISCELLANEOUS

ORDER XLI

NOTICE OF PROCEEDINGS TO THE ATTORNEY GENERAL FOR INDIA OR ADVOCATES-GENERAL OF STATES

1. The Court may direct notice of any proceedings to be given to the Attorney General for India or to the Advocate General of any State, and the Attorney General for India or the Advocate-General to whom such notice is given may appear and take such part in the proceedings as he may be advised.

2. The Attorney General for India or the Advocate-General of any State may apply to be heard in any proceedings before the Court, and the Court may, if in its opinion the justice of the case so requires, permit the Attorney General for India or the Advocate-General so applying to appear and be heard, subject to such terms as to costs or otherwise as the Court may think fit.

ORDER XLII

FORM TO BE USED

1. Every writ, summons, order, warrant or other mendatory process shall run and be in the name of the President of India and shall bear the attestation of the Chief Justice. and shall be signed by the Registrar with the day and the year of signing, and shall be sealed with the Seal of the Court.

2. The forms set out in the fifth Schedule to these Rules, or forms substantially to the like effect with such variations as the circumstances of each case may require, shall be used in all cases where those forms are appropriate.

ORDER XLIII

SERVICE OF DOCUMENTS

1. Except where otherwise provided by any Statute or prescribed by these Rules, all notices. orders or other documents required to be given to, or served on, any person shall be served in the manner provided by the Code for the service of a summons.

2. Service of any notice, order or other document on the Advocate on Record of any party may be effected by delivering it to the Advocate on Record or by leaving it with a clerk in his employ at his place of business.

3. Service of any notice, order or other document upon a person who resides at a place within the territory of India between which place and Delhi there is communication by registered post, may be effected by posting a copy of the doeument required to be served in a prepaid envelope registered for acknowledgment, addressed to the party or person at the place where he ordinarily resides :

Provided that the Registrar may direct in a particular case or class of cases, that the service shall be effected in the manner provided by the Code for the service of summons.

4. A document served by post shall be deemed to be served at the time at which it would be delivered in the oridinary course of post.

5. Except where the notice or process has been served through the Registry, the party required to effect the service, shall file an affidavit of service, along with such proof thereof as may be available, stating the manner in which the service has been effected.

6. Where the notice, order or other document has been served through a other court, the service may be proved by the desposition or affidavit of the serving officer made before the court through which the service was effected.

7. Service effected after Court hours shall for the purpose of computing any period of time subsequent to that service be deemed to have been effected on the following day.

ORDER XLIV

COMMISSIONS

1. Order XXVI in the First Schedule to the Code with respect to commissions shall apply except rules 13, 14, 19, 20, 21 and 22.

2. An application for the issue of a commission may be made by summons in Chambers after notice to all parties who have appeared or *ex parte* where there has been no appearance.

3. The Commissioner shall, if the Advocate or other person examining a witness so desires, record a question disallowed by the Commissioner and the answer thereto, but the same shall not be admitted as evidence until the Court before whom the deposition is put in evidence shall be direct.

4. The Court may, when the commission is not one for examination on interrogatories, order that the commissioner shall have all the powers of a Court under Chapter X of the Indian Evidence Act, 1872, to decide questions as to the admissibility of evidence, and to disallow any qnestion put to a witness.

5. Unless otherwise ordered the party at whose instance the commission is ordered to issue, shall lodge in the Court copies of pleadings in the case within twenty four hours of the making of the order and those copies shall be annexed to the commission when issued.

6. Any party aggrieved by the decision of the commissioner refusing to admit evidence or allow a question to be put may apply to the Court to set aside the decision and fordirection to the Commissioner to admit the evidence and or to allow the question by no such application shall be entertained if made later than 7 days after the examination of the witness has been closed.

7. After the deposition of any witness has been taken down and before it has signed by him. It shall be read over and, where necessary, translated to

the witness, and shall be signed by him and left with the commissioner who shall subscribe his name and the date of the examination.

8. Commissions shall be made returnable within such time as the Court may direct.

ORDER XLV

Power to Dispense and Inherent Powers

1. The Court may, for sufficient cause shown, excuse the parties from compliance with any of the requirements of these Rules, and may give such directions in matters of practice and procedure as it shall consider just and expedient.

2. An application to be excused from compliance with the requirements of any of the Rules shall be addressed in the first instance to the Registrar, who shall take the instructions of the Court thereon and communicate the same to the parties, but if in his opinion it is desirable that the application should be dealt within open Court, he may direct the applicant to lodge it in the Registry, and to serve the other parties with a notice of motion returnable before the Court.

3. The Court may enlarge or abridge any time appointed by these Rules or fixed by any order enlarging time, for doing any act or taking any proceeding, upon such terms (if any) as the justice of the case may require, and any enlargement may be ordered, although the application therefore is not made until after the expiration of the time appointed or allowed.

4. The Court may at any time, either of its own motion or on the application of any party, make such orders as may be necessary or reasonable in respect of any of the matters mentioned in Rules 8 of Order XXIV of these Rules, may issue summonses to persons whose attendance is required either to give evidence or to produce documents, or order any fact to be proved by affidavit.

5. Nothing in these Rules shall be deemd to limit or otherwise affect the inherent powers of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court.

ORDER XLVI

Destruction of Records

1. There shall be an index of the records in every case in the form prescribed below :—

Index of Papers
in
Civil Appeals No. of
(or Criminal Appeal No. or Petition No. or Sut No.)

Cause Title

Sl. No.	Date of filing the peper in the record.	Description of paper	No. of the part to which it belongs	Remarks

2. The record in each case shall be divided into two parts, Part I to be preserved permanently and Part II to be preserved for a period of not less than three and not more that six years as hereinafter provided.

3. Each paper as and when it is filed in the record, shall be numbered and entered in the Index and classified under the appropriate part to which it belongs.

4. The period for which any particular record is to be preserved shall be reckoned from the date of the final decree or order in the proceeding to which the record belongs, and in case a review is filed against the decree or order, from the date of the final decree or order made on Review. In the case or Registers, the period shall be reckoned from the date of the last entry in the register.

5. The Registrar may direct that any paper assigned to Part II be transferred to Part I for being preserved permanently.

6. Records which do not fall under Part I or Part II as classified below shall be referred to the Registrar who shall decide the part under which they should be included.

7. When any record is ripe for destruction, it shall either be burnt or sold as waste-paper, as the Registrar may in his discretion direct.

8. Where the record is sold as waste-paper, the sale proceeds shall be credited to Government.

9. As soon as a record is destroyed, a note shall be made in the Index against the record showing that it has been destroyed and date of destruction.

10. Part I.—

The following papers shall be included under Part I (to be preserved permanently) :—

1. Index.
2. Judgment.
3. Decree of Order.
4. Order for cost.
5. Pleadings (plaint, written statement, set off and counter claim.)
6. Authenticated copy of the printed record.
7. Petition of appeal.
8. Statement of Case.
9. Original Petitions including as special leave petitions and Article 32 petitions.
10. Orders on petitions.
11. Reference received under Art. 143.
12. Reference received under Art. 317 (1)
13. Memorandum of compromise : award of Arbitrators, which results in a decree.
14. Title deeds, if any, remaining unreturned to any party.
15. Any other records or papers which Registrar may direct to be included in this part.

REGISTERS

1. Minutes Books.
2. Registers of Suits, Civil and Criminal appeals, Article 32 petitions, special leave petitions, special references and miscellaneous petitions.
3. Register of papers received.
4. Rolls of Advocates and enrolment files.

PART II—

The following papers shall be included in Part II and shall be destroyed after a period of three or six years as indicated below :—

1.	Appearance, Power of Attorney and Vakalat.	Six years.
2.	Affidavits	
3.	Taxation files including bills of costs.	
4.	Register of bills of costs.	
5.	Despatch of Registers.	
6.	Surplus copies of printed records, and of pleadings and petitions.	Three years.
7.	Applications for condition of delay and such other formal applications.	
8.	Correspondence in cases.	
9.	Unclaimed documents filed by parties other than title deeds.	
10.	Office notes in the case files.	
11.	Copies of summons and notices.	
12.	Copying Register.	

PART XI

ORDER XLVII

Appeals and other proceedings transferred under clause (4) of Article 374 of the Constitution.

The Rules contained in the foregoing Orders shall apply, so far as may be to all appeals and other proceedings, transferred to the Court under clause (4) of Article 374 of the Constitution and pending in it in respect of all stages subsequent to the transfer.

ORDER XLVIII—(*Deleted*)

FIRST SCHEDULE

Rules as to Printing of Record.

1. The record in appeals to the Supreme Court shall be printed in the form known as Demy Quarto on both sides of the paper with single spacing.

2. The size of the paper used shall be such that the sheet, when folded and trimmed, will be about 11 inches in height and 8½ inches in width.

3. The type to be used in the text shall be Pica type, but long Primer shall be used in printing accounts, tabular matter and notes. Every tenth line shall be numbered in the margin.

4. Records shall be arranged in two parts in the same volume, where practicable viz.—

Part I.—The pleadings and proceedings, the transcript of the evidence of the witnesses, the judgments, decrees, etc. of the courts below, down to the order admitting the Appeal.

Part KK.—The exhibits and documents.

5. The Index to Part I shall be in chronological order, and shall be placed at the beginning of the volume.

The Index to Part II shall follow the order of the exhibit mark, and shall be placed immediately after the index to Part I.

6. Part I shall be arranged strictly in chronological order, i.e. in the same order as the Index.

Part II shall be arranged in the most convenient way for the use of the Supreme Court, as the circumstances of the case require. The documents shall be printed as far as suitable in chronological order, mixing Plaintiff's and Defendant's documents together when necessary. Each document shall show its exhibit mark and whether it is a Plaintiff's or Defendant's document (unless this is clear from the exhibit mark) and in all cases documents relating to the same matter such as:

(a) a series of correspondence, or

(b) proceedings in a suit other than the one under appeal shall be kept together. The order in the record of the documents in Part II will probably be different from the order of the Index, and the proper page number of each document shall be inserted in the printed Index.

The parties will be responsible for arranging the record in proper order for the Supreme Court, and in difficult cases council may be asked to settle it.

7. The documents in Part I shall be numbered consecutively.

The documents in Part II shall not be numbered, apart from the exhibit mark.

8. Each document shall have a heading which shall consist of the number of exhibit mark and the description of the document in the Index, without the date.

9. Each document shall have a heading which shall be repeated at the top of each page over which the document extends viz.

PART I

(a) Where the case has been before more than one court, the short name of the court shall first appear. Where the case has been before only one court, the name of the court need not appear.

(b) The heading of the document shall then appear consisting of the number and the description of the documents in the Index, with the date, except in the case of oral evidence.

(c) In the case of oral evidence, 'Plaintiff's evidence' or 'Defendant's evidence shall appear next to the name of the court and then the number in the Index and the witness's name. with 'Examination', 'cross-examination' or 're-examination', as the case, may be.

PART II

The word 'Exhibit' shall first appear and next to it the Exhibit mark and the description of the document in the Index with the date.

Sufficient space shall be left after the heading to distinguish it from the rest of the matter printed on the page.

10. The parties shall agree to the omission of formal and irrelevant documents, but the description of the document may appear (both in the Index and in the Record), if desired, with the words 'not printed' against it.

A long series of documents, such as accounts, rent rools inventories, etc. shall not be printed in full, unless counsel advises, but the parties shall agree to short extracts being printed as specimens,

11. In cases where maps are of an inconvenient size or unsuitable in character, the Appellant shall, in agreement with the Respondent, prepare maps drawn properly to scale and of reasonable size, showing as far as possible, the claims of the respective parties, in different colours.

SECOND SCHEDULE

FEES TO ADVOCATES

PART I

		Free on brief not exceeding (1)	Refresher not exceeding (2)
		Rs.	Rs.
1. Defended Appeals, Suits and References under Arts. 148 and 317(1) of the Constitution.	Senior.	800	400
	Junior when not led by Senior and himself pleads.	500	250
	Advocate on Record when not pleading but only instructiug.	350	175
2. Undefended Appeals.	One fee.	350	No refresher
3. Speal Leave Petitions.	Senior (if allowed)	800	do
	Junior when not by Senior and himself pleads.	200	do
	Advocate on Record when not pleading but only instructing.	100	do
4. (a) Undefended Artl. 32 Petitions.	Senior (if allowed)	350	175
	Junior when not led by Senior and himself pleading.	200	100
	Advocate on Record when not pleading but only instructing.	150	75
(b) Defended Article 32 Petitions.	Senior (if allowed)	800	400
	Junior when not led by Senior and himself pleading.	500	250
	Advocate on Record when not pleading but only instructing.	350	175
5. Notices of motion other than Article 32 Petitions when opposed.	Senior (if allowed)	150	No
	Junior.	100	refresher
6. Review Petitions in Court.	Senior (if allowed)	200	do
	Junior.	150	do
7. Opposed applications or investigations in Chambers.	One fee.	...	150
8. Unopposed motions and Chamber applications and Review applicatoins in taxation.	One fee.	...	50
9. Attending taxation or hearing Judgment.	One fee.	...	80

PART II

		Not exceeding Rs.
1.	To Junior Advocate for drafting Special Leave Petitions and Petitions under Art. 32 of the Constitution inclusive of the affidavits in support of the Petition.	120
	To the Senior for settling Special Leave Petitions and Petitions under Act. 32 of the Constitution inclusive of the affidavits in support of the Petition.	150
2.	To Junior Advocate for drafting other Petitions or affidavits (other than formal petitions like petitions for excusing delay and affidavits in them and affidavits of service.	80
	To Senior Advovate for settling other Petitions or affidavits (other than formal petitions like petitions for excusing delay and affidavits in them and affidavits of service).	60
3.	To Junior Advocate for drawing statement of Case in appeals, pleadings in suit or special case.	800
	To senior Advocate for settling statement of Case in appeals, pleadings in suit or special case in consultation with Junior, if allowed.	450
4.	Acting fees : In Appeals (defended and undefended)	Rs. 250 to Rs. 500 as the Taxing Officer may in his discretion allow, having regard to the nature and duration of the 'Acting' work involved in the case.
	In Art. 32 Petitions.	100

Actual postal and telegraph charges where necessary to be allowed in the discretion of Taxing Officer.

PART III

1.	Preparing copies of documents (other than tabulated statements and accounts) whether written or typed, first copy per folio.	25 nP.	
2.	Preparing carbon copies of above. if legible, per folio.	12 nP.	or
3.	Preparing copies of tabulated statements and accounts, per folio.	50 nP.	actual charges incurred.
4.	Preparing carbon copies of above per folio.	25 nP.	
5.	Preparing lithographed or printed copies per folio for each copy.	31 nP.	

6.	Preparing photographed copies.	Actual charges.
7.	Making stranscript or copying papers for the press where necessary for preparing paper book, including examination, per folio.	62 nP.
8.	Printing paper book	Actual cost at a reasonable rate to be allowed by the Taxing Officer.
9.	Examining proofs, per folio.	81 nP.

THIRD SCHEDULE

TABLE OF COURT FEES

PART I

ORIGINAL JURISDICTION

		Rs. nP.
1.	Filling and registering plaint	250. 00
2.	Filling and registering written statement	50. 00
3.	Filling and registering set-off or counter-claim.	50. 00
4.	Reply to a counter-claim	50. 00
5.	Examining and comparing documents with the original for each folio	. 50
6.	Reducing into writing or where taken down in shorthand, transcribing the depositions of witnesses, for each folio.	. 62
7.	Typed copies of transcript of depositions of witnesses for any party;—	
	first copy, per folio.	. 50
	carbon copies, per folio	. 12
8.	Petitions under Article 32 of the Constitution other than petitions for *habeas corpus* and petitions arising out of criminal proceedings.	50. 00

PART II

APPELLATE JURISDICTION

1.	Petition for special leave to appeal	250. 00
2.	Lodging and registering Petition of Appeal:—	
	Where the amount or value of the subject matter in dispute is Rs. 20,000 or below that sum.	250. 00
	For every Rs. 1,000 in excess of Rs, 20,000.	Rs.5. 00 for every thousand rupees or part thereof.
	In cases where it is not possible to estimate at a money value the subject matter in dispute.	Rs. 250. 00

Provided:

(1) that the maximum fee payable in any case shall not exceed Rs. 2,000 and

	(2) that where an appeal is brought by special leave granted by this Court credit shall be given to the appellant for the amount of court-fee paid by him on the petition for special leave to appeal.	Rs. 20. 00
3.	Lodging of Case, or Caveat.	Rs. 20. 00
4.	Application for Review of judgment or order of Court.	The same fee as was paid on the original proceeding.

PART III

MISCELLANEOUS

		Rs. nP.
1	Entering in register of suits, appeals, appeals or matters, names of representatives of a deceased party or of a substituted or added Party.	2. 00
2.	Summons or notice to defendant or his representative or a respondent to a petition or to a memorandum of appeal, for not more than five persons, (with an additional fee of Rs. 1 for every person in excess of five).	5. 00
3.	Entering Appearance	5. 00
4,	Amending Appearance	5. 00
5.	Vakalatnama	8. 00
6.	Filing fee for every document for which a fee is not specially provided, including documents annexed thereto as exhibits if any, or produced with plaint or used in evidence, each document.	2. 00
7.	Every application to the Court not specially provided for	10. 00
	(a) Every application to the Court by notice of motion where an *ad-interim ex-parte* order is prayed for.	20. 00
8.	Every application to a Judge in Chambers, the Registrar or Taxing Officer not specially provided for	5. 00
9.	Every requisition to draw up an order, including fee for filing the order.	5. 00
10.	Warrant, writ, summons or other process not specially provided for, not more than five persons (with an additional fee of Re. 1 for every person in excess of five.	5. 00
11.	Every certificate or report of a Judge in Chambers or of Registrar on an investigation.	10. 00
12.	Every other certificate for which a fee is not specially provided.	8. 00
13.	Commission to examine witnesses or other commission.	10. 00
14.	Production by an officer of the Court in any other court or before a Commissioner or records of any suit, matter or appeal, exclusive of travelling expenses.	10. 00
15.	For production of records by post, exclusive of postage, registration and insurance fees.	5. 00
16.	For every attendance on parties or their Advocates inspecting books and papers in Court.	5. 00
17.	For enquiry into sufficiency of security.	8. 00
18.	For every search or examination of records.	8.00
19.	Every affidavit affirmed of sworn.	2.00
20.	For every oath or affirmation administered to witness.	8 00

		Rs nP.
21.	Every exemplification of decree or other document in addition to the folio and other charges.	10.00
22.	Every requisition for duplicate or other copy of any document.	1.00
23.	For duplicate and other copies of any document, per folio less requisition fee paid.	.62
24.	For amending pleadings or other proceedings under order of the Court, per folio.	2.00
25.	Upon all moneys or securities paid to the Registrar or deposited with him.	A Commission of 1 per cent and 2½% on interest drawn on invested money.
26.	Every requisition for translation.	1. 00
27.	Every written translation, per folio, less requisition fee paid.	2. 00
27-A.	Checking and certifying a translation made by a translator other than an officer of the Court, per folio.	1. 00
28.	Summons by Taxing Officer.	8. 00
29.	Certificate by Taxing Officer.	2. 00
30.	Taxing each bill, not exceeding 10 folios.	10. 00
31.	For every other folio.	1. 00
32.	Registering every bill of costs.	1. 00
33.	Special Certificate of allowance where required.	8. 00
34.	Certificate on review of taxation.	10. 00
35.	For every certificate of funds in Court.	8. 00
36.	Requistion to prepare an estimate of the charges for preparation of record.	10. 00
37.	Bespeaking a copy of the record.	25. nP. per page or part thereof.
38.	Examining proofs.	25 nP. per page or part thereof.
39.	Cyclostyling the record, per copy.	10 nP. per page or part thereof.
40.	Printing the record.	Actual charges to be ascertained according to the prevailing rates (to be deposited in cash).
41.	Preparing copies of maps.	Actual charges (to be deposited in cash).
42.	Certification of the record.	25 nP, per page or part thereof.
43.	Registering a clerk of an Advocate or a firm of Advocates.	Rs. 5. 00
44.	Requisition for issue an identity card in substitution of one that is lost or damaged.	Rs. 8. 00

N. B.—In the case of References under Article 148 of the Constitution such of the above fees as may be appropriate charged.

FOURTH SCHEDULE

FEES TO OFFICERS OF COURT

		Rs. nP.
1.	Fees of interpreter for explaining at the house of a party or any place other than the Court House, pleadings and other documents except affidavits or affirmation where not exceeding 20 folios.	8. 00

		Rs. nP.
	Where over 20 folios, for every 10 folios or part thereof.	2. 50
2.	Fees of Registrar for taking bonds and of commissioners for taking affidavits or affirmations at the house of a party or any place other than the Court House. For the first affidavit, oath or affirmation or bond, where within the limits of the State of Delhi.	16. 00
	For the first affidavit oath or affirmation or bond, where beyong such limits.	24. 00
	For every affidavit, oath or affirmation or bond taken at the same time and place after the first, in the same suit, appeal or matter.	8. 00
3.	Fees of commissioners, for receiving affidavits, oaths or affirmations at the Court House, for every affidavit, oath or affirmation.	2. 00
4.	Fees of interpreter for explaining bonds, affidavits or petitions' at the house of a party or any place other than the Court House.	Half the fees allowed to Registrar or Commissioner.

FIFTH SCHEDULE

FORMS—*Not included.*

XXII. Art. 146 (2).

SUPREME COURT OFFICERS & SERVANTS (CONDITIONS OF SERVICE & CONDUCT) RULES, 1961

PART I—GENERAL

Short title and application.

1. (1) These rules shall be called the Supreme Court Officers aud Servants (Conditions of Service and Conduct) Rules, 1961.

(2) They shall apply to all officers and servants of the Court and shall come into force at once.

Definitions.

2. In these rules, unless the context otherwise requires—

(a) the words and expressions 'Constitution', 'Court', 'Chief Justice', 'Judge', 'Registrar', 'Advocate', and 'Advocate on Record' used in these rules and not defined shall have the meanings respectively assigned to them in the Supreme Court Rules, 1950, as amended from time to time.

(b) 'Court servant' means any officer or servant appoined to or borne on the cadre of the staff of the Supreme Court shown in the First Schedule as amended from time to time.

(c) 'Post' means a post in class I, class II, class III, or class IV according as such post is specified in class I, class II or class III or class IV, as the case may be, in the First Schedule as amended from time to time.

(d) 'Deputation' means either the temporary loan by an outside authority of the services of one of its servants to the Court or the temporary loan by the Court of the services of aCourt servant to any outside authority.

An outside authority lending the services of one of its servants to the Court shall be called the 'Lending Authority'.

An outside authority borrowing the services of a Court servant shall be called the 'Borrowing Authority.'

(e) 'Schedule' means the schedule to these rules.

(f) 'Disciplinary Authority' in relation to the imposition of a penalty on a court servant means the authority competent under these rules to impose on him that penalty.

(g) 'Members of the family' in relation to a court servant means the wife, child or step-child of such Court servant whether residing with him or not and in relation to a Court servant who is a woman, the husband residing with her and dependent on her, but does not include a wife legally separated from the Court servant or child or step-child who is no longer in any way dependent on him or her or of whose custody the Court servants has been deprived of by law

PART—II—STRENGTH, APPOINTMENT AND CONDITIONS OF SERVICE

Strength and composition of the Staff of the Court.

3. (1) There shall be in the Court such number of permanant and temporary posts of the categories in classes I, II, III and IV respectively as is specified in the first three columns of the First Schedule and the rates or scales of pay to which the holders of the said posts shall be respectively entitled shall be those specified in the fourth column of that Schedule.

2. The Chief Justice may, from time to time, amend the First Schedule by increasing or decreasing the number of permanent or temporary posts of the categories or character specified therein :

Provided that—

(a) the power to create permanent posts in class IV may be exercised by the Chief Justice in full ; and

(b) the power to create permanent posts in class III may be exercised by the Chief Justice in regard to the creation of such posts only as carry a scale of pay the maximum of which does not exceed Rs. 330 :

Provided further that—

(c) the power of the Chief Justice to create temporary posts in classes I, II, III and IV shall be limited to the creation of such posts for any specified period not exceeding two years ; and

(d) the power of the creation of permanent as well as temporary posts as afore-mentioned shall be subject to the general conditions laid down in Rule 10 of the Book of Financial Powers.

Method of recruitment:

4. (1) Recruitment to a post or class of posts may be made by one or more of the following methods, namely:—

(a) by promotion of a person already employed in the Court ;

(b) by transfer or deputation of a person serving outside the Court in connection with the affairs of the Union or of a State ;

(c) by direct recruitment.

(2) The Chief Justice may, from time to time by general or special order:—

(a) specify the method or methods by which recruitment to a post or class of posts shall be made.;

* S. R. O. Gazette of India No. 3—Part II—Section 3(ii)—Page 288-D 21—1—1961.

(b) determine the proportion of vacancies to be filled by each method in case of recruitment by more than one such method ; and

(c) specify the manner in which such recruitment shall be made in case of direct recruitment.

Qualifications for appointment.

5. The qualifications required for appointment to the various categories of posts by departmental promotion or otherwise shall be such as the Chief Justice may, from time to time, by general or special order, specify.

Appointing Authority.

6. All appointments of Court servants shall be made by the Chief Justice in his absolute discretion :

Provided that the Chief Justice in exercise of the powers conferred upon him under Article 146 (1) of the Constitution may, by general or special order, direct any other person specified in the said Article to make appointments to any post or class of posts in the Court.

Probation.

7. Every person appointed to a post by promotion or by direct recruitment shall be on probation for a period of one year.

Provided that the period of probation may, in the case of any particular person, be extended or reduced by order of the authority competent under rule 6 to make appointment to the post for the time being held by such person.

Seniority.

8. The seniority of Court servants shall be determined in accordance with such provisions as Chief Justice may, from time to time, by general or special order, make.

Conditions of Service.

9. In respect of all such matters regarding the conditions of service of court servants for which no provision or insufficient provision has been made in these rules, the rules and orders for the time being in force ane applicable to servants holding corresponding posts in the Government of India shall regulate the conditions of service of Court servants subject of such modifications, variations or exceptions, if any, in the said rules and orders, as the Chief Justice may, from time to time, specify :

Provided that no order, containing modifications, variations or exceptions in rules relating to salaries, allowances, leave or pensions shall be made by the Justice except with the approval of the President :

Provided further that the powers exercisable under the rules and orders of the Government of India by the President or by any authority subordinate to the President shall be exercisable by the Chief Justice or by such person as he may, by general or special order, direct.

Explanation:—For the purpose of this rule the posts specified in column 1 of the Second Schedule shall correspond to the posts in the Government of India shown against them in column 2 of that Schedule.

PART III—CONTROL AND DISCIPLINE

Control.

10. All Court servants shall be subject to the superintendence and control of the Chief Justice.

Penalties.

11. The following penalties may, for good and sufficient reasons and as the hereinafter provided, be imposed on a Court servant, namely :—

(i) censure ;

(ii) withholding of increments or promotion ;

(iii) recovery from pay of the whole or part of any pecuniary loss caused to the Union by negligence or breach of orders ;

(iv) reduction in rank including reduction to a lower post or time scale, or to a lower stage in the time scale ;

(v) compulsory retirement ;

(vi) removal from service which shall not be a disqualification for future employment ;

(vii) dismissal from service which shall ordinarily be a disqualification for future employment.

Explanations—(1) The termination of employment of a Court servant or reversion of a Court servant to the post originally held by him during or at the end of the period of probation, or the termination of employment of a temporary Court servant in accordance with the terms of his appointment or in accordance with the terms of the agreement under which he is employed, or the replacement of the services of a Court servant whose services have been borrowed from any office outside the Court at the disposal of the authority which had lent the services, does not amount to remval or dismissal within the meaning of this rule.

(2) The stoppage of a Court servant at the efficiency bar in the time scale of his pay on the ground of his unfitness to cross the bar does not amount to withholding of increment or promotion within the meaning of this rule.

(3) The non-promotion of a Court servant, after due consideration of his case, to a post or grade to which promotions are made by selection, does not amount to withholding of promotion within the meaning of this rule.

(4) The reversion to a lower post of a Court servant who is officiating in a higher post, after a trial in the higher post or for administrative reasons (such as, the return of the permanent incumbent from leave or deputation, availability of a more suitable officer, and the like) does not amount to reduction in rank within the meaning of this rule.

(5) The compulsory retirement of a court servant in accordance with the provisions relating to his superannuation or retirement shall not amount to a penalty under this rule.

(6) The withholding of increments of a Court servant for failure to pass a departmental examination in accordance with the rules or orders governing the post or the terms of his appointment does not amount to withholding of increment within the meaning of this rule.

Disciplinary Authorities.

12. (1) Subject to the provisions of clause (2) of Article 311 of the Constitution and rule 17 of these rules, the Chief Justice shall have power to impose any of the penalties specified in rule 11 on the Registrar or any other Court servant.

(2) Subject to the provisions of clauses (1) and (2) of Article 311 of the Constitution and rule 17 of these Rules and any special orders of the Chief Justice, the Registrar shall have power to impose any of the penalties specified in rule 11 on any Court servant other than a Court servant in Class I:

Provided that no penalty specified in clauses (v) to (vii) of rule 11 shall be imposed by any authority lower than the Appointing Authority.

Procedure for imposing major penalties.

13. (1) No order imposing on a Court servant any of the penalties specified in clauses (iv) to (vii) of rule 11 shall be passed except after an inquiry, held as far as may be, in the manner hereinafter provided.

(2) The Disciplinary Authority shall frame definite charges on the basis of the allegations on which the inquiry is proposed to be held. Such charges, together with a statement of the allegations on which they are based, shall be communi-

cated in writing to the Court servant, and he shall be required to submit within such time as may be specified by the Disciplinary Authority, a written statement of his defence and also to state whether he desires to be heard in person.

(3) The Court servant shall, for the purpose of preparing his defence be permitted to inspect and take extracts from such official records as he may specify, provided that such permission may be refused it, for reasons to be recorded in writing, in the opinion of the Disciplinary Authority such records are not relevant for the purpose or it is against the public interest to allow him access thereto.

(4) On receipt of the written statement of defence, or if no such statement is received within the time specified, the Disciplinary Authority may itself inquire into such of the charges as are not admitted or, if it considers it necessary so to do appoint a Board of Inquiry or an Inquiring Officer for the purpose.

(5) The Disciplinary Authority may nominate any person to present the case in support of the charges before the authority inquiring into the eharges (hereinafter referred to as the Inquiring Authority). The Court servant may present his case with the assistance of any other Court servant approved by the Disciplinary Authority, but may not engage a legal prectitioner for the purpose unless the person nominated by the Disciplinary Authority as aforesaid is a legal practitioner or unless the Disciplinary Authority, having regard to the circumstances of the case, so permits.

(6) The Disciplinary Authority where it is itself the Inquiring Authority or the Inquiring Authority where one is appointed shall, in the court of the inquiry, consider such documentary evidence and take such oral evidence as may be relevant or material in regard to the charges. The Court servant shall be entitled to cross-examine witnesses examined in support of the charges and to give evidence in person. The person presenting the case in support of the charges shall be entitled to cross examine the Court servant and the witnesses examined in his defence. If the Inquiring Authority declines to examine any witness on the ground that his evidence is not relevant or material, it shall record its reasons in writing.

(7) At the conclusion of the inquiry,the Disciplinary Authority where it is itself the Inquiring Authority, or the Inquiring Authority where one is appointed shall prepare a report of the inquiry, recording its findings on each of the charges together with reasons therefor. If in the opinion of such authority the proceedings of the inquiry establish charges different from those originally framed it may record findings on such charges provided that findings on such charges shall not be recorded unless the Court servant has admitted the facts constituting them or has had an opportunity of defending himself against them.

(8) The record of the inquiry shall include:—

(i) the charges framed against the Court servant and the statement of allegations furnished to him under sub-rule (2);
(ii) his written statement of defence, if any;
(iii) the oral evidence taken in the course of the inquiry;
(iv) the documentary evidence considered in the course of the inquiry :
(v) the orders, if any, made by the disciplinary Authority and the Inquiring Authority in regard to inquiry ; and
(vi) a report setting out the findings on each charge and the reasons therefor.

(9) The disciplinary Authority shall, if it is not the Inquiring Authority, consider the record of the inquiry and record its findings on each charge.

(10) (i) If the Disciplinary Authority, having regard to its findings on the charges, is of the opinion that any of the penalties specified in clauses (iv) to (vii) of rule 11 should be imposed, it shall—

(a) furnish to the Court servant a copy of the report of Inquiring Authority and, where the Disciplinary Authority is not the Inquiring Authority,

a statement, of its findings together with brief reasons for disagreement, if any, with the findings of the Inquiring Authority ; and

(b) give him a notice stating the action proposed to be taken in regard to him and calling upon him to submit within a specified time such representation as he may wish to make against the proposed action.

(ii) The Disciplinary Authority shall consider the representation, if any, made by the Court servant in response to the notice under clause (i) and determine what penalty, if any, should be imposed on the Court servant and pass appropriate orders on the case.

(11) In a case where one of the penalties specified in clause (iv) to (vii) of rule 11 is imposed on a Court servant on the ground of conduct which has led to his conviction on a criminal charge or where the Disciplinary Authority is satisfied that for some reason to be recorded by the authority in writing, it is not reasonably practicable to give to the Court servant an opportunity of showing cause before imposing any of the aforementioned penalties is shall be lawful for the Disciplinary Authority to waive the requirements of any of the provisions of this rule.

(12) Orders passed by the Disciplinary Authority shall be communicated to the Court servant who shall also be supplied with a copy of the report of the Inquiring Authority and, where the Disciplinary Authority is not the Inquiring Authority, a statement of its findings together with brief reasons for disagreement, if any, with the findings of the Inquiring Authority, unless they have already been supplied to him.

Procedure for imposing minor penalties;

14. (1) No order imposing any of the penalties specified in clauses (i) to (iii) of rule 11 shall be passed except after—

(a) the Court servant is informed in writing of the proposal to take action against him and of the allegations on which it is proposed to be taken and given an opportunity to make any representation the may wish to make ; and

(b) such representation, if any, is taken into consideration by the Disciplinary Authority.

(2) The record of proceedings in such cases shall include—

(i) a copy of the intimation to the Court servant of the proposal to take action against him ;

(ii) a copy of the statement of allegations communicated to him ;

(iii) his representation, if any ; and

(iv) the orders on the case together with the reasons therefor.

Suspension.

15. (1) The Disciplinary Authority may place a Court servant under suspension :

(a) where a disciplinary proceeding against him is contemplated or pending ; or

(b) where a case against him in respect of any criminal charge is under investigation or trial :

Provided that—

(i) in the case of a Court servant on deputation outside the Court, the Borrowing Authority shall be requested to place him under suspension, pending the conclusion of the inquiry and the passing of the final order in the case ; and

(ii) in the case of a servant on deputation to the Court, the Registrar shall

without delay inform the Lending Authority of the circumstances in which that Court servant has been placed under suspension.

(2) A Court servant who is detained in custody, whether on a criminal charge or otherwise, for a period exceeding forty-eight hours shall be deemed to have been suspended with effect from the date of detention, by an order of the Chief Justice and shall remain under suspension until further orders.

(3) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Court servant under suspension is set aside in appeal under these rules and the case is remitted for further inquiry or action or with any other directions, the order of his suspension shall be deemed to have continued in force on and from the date of the original order of dismissal, removal or compulsory retirement and shall remain in force until further orders.

(4) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Court servant is set aside or declared void or rendered void in consequence of or by a decision of a court of law and the Disciplinary Authority, on a consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the Court servant shall be deemed to have been placed under suspension from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders.

(5) An order of suspension made or deemed to have been made under this rule may at any time be revoked by the authority which made the order or by any authority to which that authority is subordinate.

Disciplinary action against a Court servant on deputation to an outside authority.

16. (1) Where the services of a Court servant are borrowed by an outside authority the Borrowing Authority shall have the powers of the Disciplinary Authority under these rules for the purpose of placing him under suspension and for the purpose of taking disciplinary proceedings against him :

Provided that the Borrowing Authority shall forthwith inform the Court of the circumstances leading to the order of his suspension or the commencement of the disciplinary proceeding, as the case may be.

(2) In the light of the findings in the disciplinary proceeding taken against such Court servant :—

(a) if the Borrowing Authority is of the opinion that any of the penalties specified in clauses (i) to (iii) of rule 11 should be imposed on such Court servant, it may in consultation with the Court pass such orders on the case as it deems necessary :

Provided that, in the event of a difference of opinion between the Borrowing Authority and the Court, the services of such servant shall be replaced at the disposal of the Court ;

(b) if the Borrowing Authority is of the opinion that any of the penalties specified in clauses (iv) to (vii) of rule 11 should be imposed on such Court servant, it shall replace his services at the disposal of the Court and transmit to it the proceedings of the inquiry, and there-upon the Disciplinary Authority may pass such orders on the case as it deems necessary after complying with the provisions of sub-rules (9) and (10) of rule 13 :

Provided that the Disciplinary Authority may instead of making an order under this clause on the record of the inquiry transmitted by the Borrowing Authority, hold such further inquiry as it may deem necessary.

Disciplinary action against a Court servant on deputation to the Court from an outside authority.

17. (1) Where an order of suspension is made or a disciplinary proceeding is taken by the Court against a Court servant whose services have been lent to the Court by an outside authority, the Lending authority shall forthwith be informed of the circumstances leading to the order of his suspension or the commencement of the disciplinary proceeding against him, as the case may be.

(2) In the light of the findings in the disciplinary proceeding taken against such Court servant—

(a) if the Disciplinary Authority is of the opinion that any of the penalties specified in clauses (i) to (iii) of rule 11 should be imposed on such Court servant, it may, after consultation with the Lending Authority, pass such orders on the case as it deems necessary :

Provided that, in the event of a difference of opinion between the Court, and Lending Authority, the services of such servant shall be replaced at the disposal of the Lending Authority ;

(b) if the Disciplinary Authority is of the opinion that any of the penalties specified in clause (iv) to (vii) of rule 11 should be imposed on such Court servant, the services of such servant shall be replaced at the disposal of the Lending Authority and the record of the inquiry shall be transmitted to such authority for such action as it deems necessary.

Appeals against orders imposing penalties.

18. (1) An Appeal shall lie to the Chief Justice from an order passed by the Registrar imposing any penalty specified in rule 11.

(2) An appeal shall lie to a Bench of not less than three Judges of the Court from an order passed by the Chief Justice imposing any penalty specified in rule 11 otherwise than on appeal from an order of the Registrar.

Appeals against other orders.

A Court servant may appeal to the Chief Justice against the following orders passed against him by the Registrar :—

(a) an order stopping him at the efficiency bar in the time-scale on the ground of his unfitness to cross the bar ; and

(b) an order interpreting to his disadvantage any rule by which his conditions of service are regulated

Period of limitation for appeals.

20. An appeal under this Part shall be filed within one month from the date of the receipt of the order appealed against :

Provided that the Chief Justice or the Bench of Judges, as the case may be, dealing with the appeal may, if satisfied that the appellant had sufficient cause or not submitting the appeal in time, entertain the appeal after the expiry of the said period.

Submission of appeals.

21. Every appeal shall be addressed to the Chief Justice and shall be submitted to the Registrar. It shall contain all material statements and grounds on which the appellant relies and shall be complete in itself. It shall not contain any disrespectful or improper language.

Implementation of the orders in appeal.

22. The Registrar shall give effect to the orders passed in appeals submitted under rule 18.

Powers of Chief Justice.

23. Nothing in the rules in this Part shall be construed to limit or a bridge the power of the Chief Justice to deal with the case of any Court servant in such manner as may appear to him to be just and reasonable :

Provided that where any rule is applicable to the case of a Court servant, his case shall not be dealt with in a manner less favourable to him than that provided by the said rule.

PART IV

CONDUCT

General.

24. (1) Every Court servant shall at all times maintain absolute integrity and devotion to duty.

(2) No Court servant shall act in a manner prejudicial to discipline and good order in the Registry.

Absence from duty.

25. (1) Every Court Servant shall be punctual in attendance and shall not absent himself from duty without previous permission except as provided under sub-rule (2).

(2) In case of absence due to sudden illness or some other unforeseen circumstances beyond his control, a Court servant shall give intimation thereof to the office without delay.

(3) All applications for leave for more than three days on grounds of ill health shall be supported by a medical certificate from a registered medical practitioner provided that the Court servant may be called upon to produce a medical certificate from his authorised medical attendant or the Civil Surgeon.

Taking part in politics and elections.

26. (1) No Court servant shall be a member of, or be otherwise associated with, any political party or any organisation which takes part in politics nor shall he take part in, subscribe in aid of, or assist in any other manner, any political movement or activity.

(2) No Court servant shall canvass or otherwise interfere or use his influence in connection with, or take part in, an election to any legislature or local authority :

Provided that :

(i) a Court servant qualified to vote at such election may exercise his right to vote, but where he does so, he shall give no indication of the manner in which he proposes to vote or has voted ;

(ii) a Court servant shall not be deemed to have contravened the provisions of this rule by reason only that he assists in the conduct of an election in the due performance of a duty imposed on him by or under any law for the time being in force.

Explanation.—The display by a Court servant on his person, vehicle or residenee of any electoral symbol shall amount to using his influence in connection with an election within the meaning of this sub-rule

Connection with press or radio.

27. (1) No Court servant shall, except with the previous permission of the Registrar, own wholly or in part, or conduct, or participate in the editing or managing of, any newspaper or other periodical publication.

(2) No Court servant shall, except with the previous permission of the Registrar or in the *bona fide* discharge of his duties, participati on in a radio broadcast or contribute any article or write any letter either anonymously or in his own name or in the name of any other person to any newspaper or periodical :

Provided that no such permission shall be required if such broadcast or such contribution is of a purely literary, artistic, scientific, educational or cultural character.

Evidence before committees.

28. (1) No Court servant shall, except with the previous permission of the Chief Justice, give evidence before any public Committee.

(2) Nothing in this rule shall apply to :—

(a) evidence given before a Committee which has power to compel the attendance of witnesses or the production of documents ; or

(b) evidence given before an authority holding any judicial or departmental inquiry.

Unauthorised communication of information.

29. No Court servant shall, except in accordance with any general or special order of the Chief Justice or the Registrar or in the performance in good faith of the duties assigned to him, communicate directly or indirectly to any other Court servant or to a Government servant or to any private person or to the press, any document or information which has come into his possession in the course of those duties.

Collecting subscriptions for public causes.

30. (1) No Court servant shall, without the permission of the Registrar, circulate amongst other Court servants of persons connected with the business of the Court, appeals for subscriptions for public causes or raise any subscriptions by exerting his official position or influence.

(2) No Court servant shall assist any outsider to have access for such purposes to any Court room of the Registry.

Gifts.

31. (1) Save as otherwise provided under these Rules, no Court servant shall, except with the previous permission of the Registrar, accept from any person directly or indirectly or permit any member of his family to accept, any gift gratuity or reward of more than a trifling value :

Provided that gifts of a value, reasonable in all circumstances of the case, may be accepted from relations and personal friends of presented to such persons on occasions such as weddings, anniversaries, funerals and religious functions when the making or receiving of such gifts is in conformity with the prevailing religious or special customs.

Public demonstrations in honour of Court servant.

32. No Court servant shall, except with the previous permission of the Registrar, receive any complimentary or valedictory address or aceept any testimonial or attend any meeting or entertainment held in his honour :

Provided that nothing in this rule shall apply to:

(i) a farewell entertainment of a substantially private and informal character held in honour of a Court servant on the occasion of his retirement or transfer ; or

(ii) the acceptance of simple and inexpensive entertainments arranged by public bodies or institutions.

Private trade or employment.

33. No Court servant shall, except with the previous permission of the Registrar, engage directly or indirectly, in any trade or business or undertake any employment:

Provided that a Court servant may, without such permission, undertake honarary work of a social or a charitable nature or occasional work of a literary, artistic, scientific, educational or cultural character, subject to the condition that his official duties do not thereby suffer ; but he shall not undertake, or shall discontinue such work, if so directed by the Registrar.

Explanation.—Canvassing by a Court servant in support of the business of insurance agency, commission agency etc. owned or managed by his wife or any other member of his family shall be deemed to be a breach of his rule.

Investments, lending and borrowing.

34. (1) No Court servant shall speculate in any investment.

Explanation.—The habitual purchase or sale of securities of a notoriously fluctuating value shall be deemed to be speculation in investments within the meaning of this sub-rule.

(2) No Court servant shall make, or permit his wife to make any investment likely to embarrass or influence him in the discharge of his official duties.

(3) No Court servant shall engage himself in the business of money lending.

(4) No Court servant shall, save in the ordinary course of business with a bank or a firm of standing, borrow money from or otherwise place himself under pecuniary obligation to any person with whom he is likely to have official dealings, nor shall he permit any member of his family, except with the previous permission of the Registrar to enter into any such transaction :

Provided that a Court servant may accept a purely temporary loan of small amount from a personal friend or relative or operate a credit account with a *bona fide* tradesman.

Insolvency and habitual indebtedness.

35. A Court servant shall so manage his private affairs as to avoid habitual indebtedness or insolvency. A Court servant who becomes the subject of a legal proceeding for insolvency shall forthwith report the full facts thereof to the Registrar.

Movable, immovable and valuable property.

36. (1) No Court servant shall, except with the previous knowledge of the authority mentioned in the explanations below, acquire or dispose of immovable property by lease, mortgage, purchase, sale, gift or otherwise, either in his own name or in the name of any member of his family.

(2) A Court servant who enters into any transaction concerning any movable property exceeding one thousand rupees in value, whether by way of purchase, sale or otherwise, shall forthwith report such transaction to the authority specified below :

Explanations.—The authority for the purposes of sub-rules (1) and (2) above shall be :—

(i) The Chief Justice in the case of Registrar and other Court servants holding a Class I post.

(ii) The Registrar in the case of all other Court servants.

(3) Every Class I servant of the Court and auch other categories of servants as may be specified by the Chief Justice by a general or special order shall on first appointment in the service of the Court and thereafter at intervals of every twelve months submit a return in such form as the Chief justice may prescribe in this behalf, of all immovable property owned, acquired or inherited by him or held by him in lease or mortgage, either in his own name or in the name of any member of his family or in the name of any other person.

(4) The Chief Justice may, at any time, by general or special order, require a Court servant to submit, within a period specified in the order, a full and complete statement of such movable and immovable property held or acquired by him or by any members of his family as may be specified in the order. Such statement shall, if so required, include details of the means by which, or the source from which, such property was acquired.

37. (1) No Court servant shall, without the previous permission of the Registrar, have recourse to any Court or to the press for the vindication of his official acts or character, which have been the subject matter of adverse criticism or an attack of defamatory character. In granting permission to the recourse to a Court, the Registrar, shall, in each case, decide whether the Court shall bear the costs of the proceedings or whether the servant concerned should institute the proceedings at his own expense, and if so, whether, in the event of a decision in his favour, the Court shall reimburse to the extent of the whole or any part of the costs.

Vindication of acts and character of Court servants.

(2) Nothing in the rule shall be deemed to prohibit or otherwise affect the right of the Court servant from vindicating his private character or any act by him in his private capacity.

38. No Court servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service in the Court.

Canvassing of non-official or other outside influence.

39. (1) No Court servant shall have any business dealings with an Advocate or an Advocate on Record, nor shall, save with the express permission of the Registrar, share any residential accommodation with any such Advocate or Advocate on Record.

Relations with Advocates or Advocates on Record.

(2) The provisions of this rule shall apply notwithstanding that the Court servant is related to the Advocate or Advocate on Record concerned,

(3) This rule does not debar a Court servant from accepting an invitation from an Advocate or an Advocate on Record to a marriage party or to a social gathering.

40. (1) A Court servant may seek redress from the Registrar or from the Chief Justice with the permission of the Registrar in the matter of grievance arising out of his employment or conditions of service.

Seeking of redress from Court in respect of service matters.

(2) A Court servant who resorts to a Court of law, even in cases where such remedy is legally admissible, without first exhausting all the remedies available to him under the rules regulating his condition of service, shall render himself liable to disciplinary action under the rules in Part III of these Rules.

41. No Court servant shall participate in any demonstration or resort to any from of strike in connection with any matter pertaining to his conditions of service.

Demonstrations and Strikes.

42. No Court servant shall join or continue to be a member of a Service Association which has not, within a period of six months from the date of these rules or from its formation, obtained the recognition of Chief Justice, or recognition in respect of which has been refused by the Chief Justice.

Joining of Associations by Court servants.

43. It shall be the duty of a Court servant who has been arrested on a criminal charge made or a proceeding taken against him in connection with his position as a Court servant or otherwise which is likely to embarrass him in the discharge of his duties or which involves moral turpitude, to intimate the fact of his arrest and the circumstances connected therewith, to the Registrar promptly in writing even though he might have subsequently been released on bail. Failure on the part of the Court servant concerned to so inform, will be regarded as

Arrests on a criminal charge.

suppression of a material information and will render him liable to disciplinary action on this ground alone, apart from any action that may be taken against him on the conclusion of the case against him.

Court property.

44. No Court servant shall take out any article or property belonging to the Court outside the Court House or premises without the express permission of the Registrar.

Contravention of laws and conviction by a Court of Law.

45. Any contravention of any law by a Court servant, which involves moral turpitude, shall be regarded as a serious matter, of which notice shall be taken departmentally.

Where such contravention is followed by a conviction in a Court of law, the Court servant may be punished departmentally on the basis of that conviction alone without following the procedure laid down for departmental enquiries.

Contravention of the rules.

46. (1) Any Court servant contravening the provisions of any of the rules in this Part shall render himself liable to disciplinary action under the rules in Part III of these Rules.

(2) The Chief Justice shall have the power to take any action against the Registrar for contravention of the rules in this Part. In relation to matters pertaining to the conduct of the Registrar, the Chief Justice shall be the competent authority for granting the requisite permission to the Registrar in respect of anything which is required to be done with the previous permission of a Superior authority under any of the rules in this Part

PART V

MISCELLANEOUS

Residuary Powers.

47. Nothing in these Rules shall be deemed to affect the power of the Chief Justice to make such orders, from time to time, as he may deem fit in regard to all matters incidental or ancillary to these rules not specifically provided for herein or in regard to matters as have not been sufficiently provided for :

Provided that if any such order relates to salaries, allowances, leave or pensions of Court servants, the same shall be made with the approval of the President.

Interpretation.

48. All questions relating to the interpretation of these rules shall be referred to the Chief Justice, whose decision thereon shall be final :

Provided that all questions relating to the interpretation of any rule in Part II of these Rules in so far as it relates to salaries, allowances, leave or pensions shall be decided by the Chief Justice with the approval of the President.

Repeal and Savings.

49. The Supreme Court (Conditions of Service of Staff) Rules, 1951, are hereby repealed :

Provided that any order already made under the repealed rules shall continue in force and be deemed to have been made under the provisions of these rules :

Provided further that any action taken or proceedings started under the repealed rules and pending at the commencement of these rules shall be continued and disposed of as far as may be, in accordance with the provisions of these rules.

[Schedules not printed]

XXIII. ARTICLE 148(3).

THE COMPTROLLER AND AUDITOR-GENERAL (CONDITION OF SERVICE) ACT, 1953 (ACT NO. 21 OF 1953).

AN ACT TO REGULATE CERTAIN CONDITIONS OF SERVICE OF THE COMPTROLLER AND AUDITOR-GENERAL OF INDIA.

[*17th May, 1953.*]

BE it enacted by Parliament as follows :—

Short title.

1. This Act may be called the Comptroller and Auditor-General (Conditions of Service) Act, 1953.

Term of office of Comptroller and Auditor-General.

2. A Comptroller and Auditor-General of India shall hold office for a term of six years from the date on which he enters upon his office :

Provided that he may at time by writing under his hand addressed to the President resign his office.

Explanation.—For the purposes of this section, the term of six years in respect of the Comptroller and Auditor-General holding office immediately before the commencement of this Act shall be computed from the 15th day of August, 1948.

Pension payable in Comptroller and Auditor-General.

3. A Comptroller and Auditor-General of India shall, on his retirement, be eligible—

(*a*) (*i*) in the case of the Comptroller and Auditor-General holding office immediately before the commencement of this Act, to such pension as may be admissible to him under the rules for the time being applicable to the service to which he belonged at the date on which he became the Comptroller and Auditor-General ; or

(*ii*) in the case of any other Comptroller and Auditor-General who was in the service of the Government at the date of his appointment, to such pension as may be admissible to the service to which he belonged at the date of his appointment ;

the service as Comptroller and Auditor-General, in either case, being reckoned for the purposes of the relevant rules as service for pension ; and

(*b*) to an additional pension of six hundred rupees per annum in respect of each completed year of service as Comptroller and Auditor-General, such service in respect of the Comtroller and Auditor-General holding office, immediately before the commencement of this Act, being computed from the 15th day of August, 1948 :

Provided the aggregate of all pensions payable to the Comptroller and Auditor-General shall not,—

(*i*) in the case of a member of the India Civil Service, exceed one thousand pounds sterling per annum ; or

(*ii*) in the case of a member of any other service exceed twelve thousand rupees per annum.

Other conditions of service of Comptroller and Auditor-General.

4. Save as otherwise expressly provided in this Act, the other conditions of service of the Comptroller and Auditor-General of India shall be as specified in the Second Schedule to the Constitution.

XXIV. ARTICLE 221 (2).

THE HIGH COURT JUDGES (CONDITIONS OF SERVICE) (ACT, 1954 ACT NO 28 OF 1954)

AN ACT TO REGULATE CERTAIN CONDITIONS OF SERVICE OF THE JUDGES OF HIGH COURTS[1] * * *.

[*20th May, 1954.*]

Be it enacted by Parliament in the Fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title.

1. This Act may be called the High Court Jndges (Conditions of Service) Act, 1954.

Definitions.

2. (*1*) In this Act, unless the context otherwise requires,—

(*a*) "acting Chief Justice" means a Judge appointed under article 223 of the Constitution to perform the duties of the Chief Justice ;

(*b*) "acting Judge" means a person[2] * * * appointed to act as a Judge under sub-section (*2*) of section 222 of the Government of India Act, 1935 [3][or under clause (2) of article 224 of the Constitution] ;

(*c*) "actual service" includes—

(*i*) time spent by a Judge on duty as a Judge or in the performance other functions as he may, at the request of the President of India, undertake to discharge ;

(*ii*) vacations, excluding any time during which the Judge is absent on leave :

(*iii*) joining time on transfer from a High Court to the Supreme Court or from one High Court to another or from the Supreme Court to a High Court ;

(*iv*) time spent by a Judge on duty as a Judge of a former Indian High Cout ;

(*v*) time spent by a Judge to attend the sittings of the Supreme court as an *ad hoc* Judge under article 127 of the Constitution ; and

(*ii*) vacation (excluding any time during which the Judge was absent on leave) taken by a Judge as a Judge of a former Indian High Court :

(*d*) "additional Judge" means a person[1] * * appointed as an additional Judge under sub-section (3) of section 222 of the Government of India Act, 1935[2][or under clause (1) of article 224 of the Constitution] ;

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1. The words and letter "in Part A States" comitted by the Adaptation of Laws (No. 8) Order, 1956.
2. The words "who was" omitted, *ibid.*
3. Added, *ibid,*

(*e*) "former Indian High Court" means the High Court at Rangoon, the High Court at Lahore, the Chief Court of Sind or the Judicial Commissioner's Court of North-West Frontier Province ;

(*f*) "High Court" means a High Court[2][for a State] and includes a High Court which was exercising jurisdiction[2][in a Part A State or] in the corresponding Province before the commencement of the Constitution ;

(*g*) "Judge" means a Judge of a High Court and includes the Chief Justice,[4][an acting Chief Justice, an additional Judge and an acting Judge of the High Court] ;

(*h*) "service for pension" includes—

(*i*) actual service ;

(*ii*) one month or the amount actually taken, whichever is less, of each period of leave on full allowances ;

(*iii*) joining time on return from leave out of India ;

(*i*) "prescribed" means prescribed by rules made under this Act.

(2) In the calculation of service for the purposes of this Act, previous service for any period or periods as acting Judge or additional Judge or as a Judge of a former Indian High Court shall be reckoned as service as a Judge but, save as otherwise expressly provided, previous service as an acting Chief Justice shall not be reckoned as service as Chief Justice.

(3) Any period of leave take by a Judge before the commencement of this Act under the rules then applicable to him as an acting Judge, additional Judge or a Judge shall, for the purpose of this Act, be treated as if it were leave taken by him under this Act.

(4) Any period of leave taken by a Judge while serving as a Judge of a former Indian High Court before his appointment to a High Court shall for the purposes of this Act be treated as if it were leave taken by him under this Act.

CHAPTER II

LEAVE

Kinds of leave admissible to a Judge.

3. (1) Subject to the provisions of this Act, leave granted to a Judge may be at his option either—

(a) leave on full allowances ; or

(b) leave on half allowances ; or

(c) leave partly on full allowance and partly on half allowances.

(2) For the purpose of this Chapter, any period of leave on full allowances shall be reckoned as double that period of leave on half allowances.

Leave account showing the amount of leave due.

4. (1) A leave account shall be kept for each Judge showing therein the amount of leave due to him in terms of leave on half allowances.

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1. The words "who was" omitted by the Adaptation of Laws (No. 3) Order, 1956.
2. Added, *ibid*,
3. Subs., *ibid.*, for "in any Part A State".
4. Subs. by Act 46 of 1948. s. 2, for "and acting Chief Justice of a High Court" (w.e.f. 1. 11-1956).

(2) In the leave account of a Judge—

(a) there shall be credited to him—

(*i*) one-fourth of the time spent by him on actual service ; and

(*ii*) where the Judge, by reason of his having been detained for the performance of duties not connected with the High Court, cannot enjoy any vacation which he would otherwise have been entitled to enjoy had he not been so detained, as compensation for the vacation not enjoyed, a period equal to double the period by which the vacation enjoyed by him any year falls short of one month ; and

(*b*) there shall be debited to him all leave with allowances taken by him.

Aggregate amount of leave which may be granted.

5. (*1*) The aggregate amount of leave which may be granted to a Judge during the whole period of his service as such shall not exceed in terms of leave on half allowances three years together with the aggregate of the periods, if any, credited to his leave account under sub-section (*2*) (*a*) (*ii*) of section 4 as compensation for vacation not enjoyed.

(*2*) The aggregate amount of leave on full allowances which may be granted to a Judge during the whole period of his service as such shall not exceed one-twenty-fourth of the period spent by him on actual service together with one-half of the aggregate periods, if any, credited to his leave account under sub-section (*2*) (*a*) (*ii*) of section 4 as compensation for vacation not enjoyed.

(*3*) The maximum period of leave which may be granted at one time shall be, in the case of leave on full allowances, five mohths and in the case of leave with allowances of any kind, sixteen months.

Grant of leave not due.

6. Subject to the maximum limit specified in sub-section (*1*) of section 5, leave on half allowances may be granted to a Judge in excess of amount at his credit—

(*i*) on medical certificate ; or

(*ii*) otherwise than on medical certificate, for not more than six months[1] [or for two or more periods, not exceeding in the aggregate, six months] during the whole period of his service as a Judge :

Provided that no such leave shall be granted if the Judge is not expected to return to duty at the end of such leave and earn the leave granted.

Special disability leave.

7. The rules for the time being in force with respect to the grant of special disability leave in relation to an officer of the Central Civil Services, Class I who has entered service on or after the 16th July, 1931 and who may be disabled by injury caused in, or in consequence of, the due performance of his official duties or in consequence of his official position, shall apply in relation to a Judge.

Extraordinary leave.

8. [2][Extraordinary leave may be granted to a Judge for a period not exceeding six months, or for two or more periods, not exceeding in the aggregate, six months] during the whole period of his service as a Judge in excess of any leave permissible under the foregoing provisions of this Chapter, but no salary or allowances shall be payable during, or in respect of, such leave.

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1. Subs. by Act 46 of 1958, s. 8, for "and not more than once" (w.e.f. 1-11-1956).

2. Subs. by s. 4, *ibid.*, for "Extraordinary leave not exceeding six months in duration may be granted to a Judge not more than once" (w.e.f. 1-11-1956).

Leave allowances.

9. (1) The monthly rate of leave allowances payable to a Judge while on leave on full allowances shall be for the first month of such leave a rate equal to the monthly rate of his salary, and thereafter two thousand two hundred and twenty rupees.

(2) The monthly rate of leave allowances payable to a Judge while on leave on half allowances shall be one thousand one hundred and ten rupees.

Allowances for joining time.

10. There shall be payable to a Judge in respect of joining time on his return from leave out of India an allowance at the rate of one thousand one hundred and ten rupees a month in lieu of salary

Combining leave with vacation.

11. A Judge may be permitted to combine vacation on full salary with leave, if—

(*a*) where the vacation consists of one continuous period, the leave is taken either at the commencement or at the end of the vacation but not at both ;

(*b*) where the vacation is divided into two separate periods, the leave is taken for the interval, or part of the interval, between the two periods of that vacation, or for the interval, or part of the interval, between the second period of that vacation and the commencement of the next ensuing vacation :

Provided that no such permission to combine vacation with leave shall be granted if it becomes necessary to appoint an acting Chief Justice during the period of vacation or if the Judge is not expected to return to duty at the end of such leave.

Consequences of overstaying leave or vacation.

12. If a Judge overstays his leave or any vacation, whether combined with leave or not, he shall receive no salary for the period of his absence in excess of leave granted to him or beyond the end of the vacation, as the case may be :

Provided that if such absence is due to circumstances beyond his control, the period thereof may be treated as leave and may be debited to his leave account.

Authority competent to grant leave, etc.

13. The authority competent to grant or refuse leave to a Judge or revoke or curtail leave granted to a Judge shall be the Governor of the State in which the principal seat of the High Court is situate, after consultation with the Chief Justice of that High Court.

CHAPTER III

PENSIONS

Pension payable to Judges.

14. Subject to the provisions of this Act, every Judge shall, on his retirement, be paid a pension in accordance with the scale and provisions in Part I of the Fisrt Schedule :

Provided that no such pension shall be payable to a Judge unless—

(*a*) he has completed not less than twelve years of service for pension ; or

(*b*) he has attained the age of *sixty-two years and in the case of Judge holding office on the 5th day of October, 1963, sixty years*[1] ; or

1. The italicised words were substituted for 'sixty years' by Act 27 of 1964 (w.e.f. 30-9-64).

(c) his retirement is medically certified to be necessitated by ill-health :

[2][Provided further that if a Judge at the time of his appointment is in receipt of a pension (other than a disability or wound pension) in respect of any previous service in the Union or a State, the pension payable under this Act shall be in lieu of, and not in addition to, that pension.]

Explanation,—In this section 'Judge' means a Judge who is not a member of the Indian Civil Service or has not held any other pensionable civil post under the Union or a State and includes a Judge who being a member of the Indian Civil Service or having held any other pensionable civil post under the Union or a State has elected to receive the pension payable under Part I of the First Schedule.

15. Every Judge—

Special provision for pension in respect of Judges who are members of service.

(*a*) who is a member of the Indian Civil Service shall, on his retirement, be paid a pension in accordance with the scale and provisions in Part II of the First Schedule :

(*b*) who is not a member of the Indian Civil Service but has held any other pensionable civil post under the Union or a State, shall, on his retirement, be paid a pension in accordance with the scale and provisions in Part III of the First Schedule :

Provided that every such Judge shall elect to receive the pension payable to him either under Part I of the First Schedule or, as the case may be, Part II or Part III of the First Schedule, and the pension payable to him shall be calculated accordingly.

Power of President to add to the service for pension.

16. The President of India may for special reasons direct that any period not exceeding three months shall be added to the service for pension of a Judge :

Provided that the period so added shall be disregarded in calculating any additional pension under Part I or Part II or Part III of the Fisrt Schedule.

17. The rules for the time being in force with respect to the grant of extra-ordinary pensions and gratuities in relation to an officer of the Central Civil Services, Class I who has entered service on or after the 1st April, 1937 and who may suffer injury or die as a result of violence, shall apply in relation to a Judge, subject, however, to the modification that references in those rules to tables of injury, gratuities and pensions, and of family gratuities and pensions, shall be construed as references to the tables in the Second Schedule.

Extra-ordinary pensions.

Conversion of sterling pension into rupees.

18. Pensions expressed in sterling only shall, if paid in India, be converted into rupees at such rate of exchange as the Central Government may, from time to time, specify in this behalf.

[1] * * * * * *

Commutation of pensions.

19. The Civil Pensions (Commutation) Rules for the time being in force shall, with necessary modifications, apply to Judges.

Provident Fund.

20. Every Judge shall be entitled to subscribe to the General Provident Fund (Central Services) :

Provided that a Judge who is a member of the Indian Civil Service or has held any other pensionable civil post under the Union or a State shall continue to

2. Ins. by Act 46 of 1958, s. 5 (w.e.f. 1-11-1956).

1. Proviso omitted by Act 46 of 1958, s. 6 (w.e.f. 1-11-1956).

subscribe to the Provident Fund to which he was subscribing before his appointment as a Judge :

Provided further that a Judge who was appointed before the commencement of this Act may continue to subscribe to the Provident Fund to which he was subscribing immediately before such commencement.

Authority competent to grant pension.

21. Save as may be otherwise expressly provided in the relevant rules relating to the grant of extraordinary pensions and gratuities, the authority competent to grant pension to a Judge under the provisions of this Act shall be the President of India.

CHAPTER IV

MISCELLANEOUS

Travelling allowances to a Judge.

22. Every Judge shall receive such reasonable allowances to reimburse him for expenses incurred in travelling on duty within the territory of India and shall be afforded such reasonable facilities in connection with travelling as may, from time to time, be prescribed.

Facilities for medical treatment and other conditions of service.

23. (1) Every Judge and the members of his family shall be entitled to such facilities for medical treatment and for accommodation in hospitals as may, from time to time, be prescribed.

(2) The conditions of service of a Judge for which no express provision has been made in this Act shall be such as may be determined by rules made under this Act.

(3) This section shall be deemed to have come into force on the 26th January, 1950 and any rule made under this section may be made so as to be retrospective to any date not earlier than the commencement of this section.

Vacation of High Courts.

[1][**23A.** (1) Every High Court shall have a vacation or vacations for such periods as may, from time to time, be fixed by the President, by order notified in this behalf in the Official Gazette, and every such order shall have effect notwithstanding anything contained in any other law, rule or order regulating the vacation of the High Court.

(2) Every order made under sub-section (1) shall be laid before each House of Parliament.

Special provisions in respect of continuing Judges.

23B. (1) In the calculation of the service for pension of a continuing Judge for the purposes of this Act, his previous service for pension as a Chief Justice or as a Judge of a former High Court in a Part B State, under the provisions of the High Court Judges (Part B States) Order, 1953, or any other order or rule then applicable to him, shall be reckoned as service for pension as a Chief Justice or, as the case may be, as a Judge under this Act.

(2) In the calculation of the amount of leave at the credit of a continuing Judge for the purposes of this Act, the amount of leave due to him immediately before the 1st day of November, 1956, under the provisions of the High Court Judges (Part B States) Order, 1953, or any other order or rule then applicable to him, shall be added to the amount of leave at his credit under this Act.

1. Ins. by Act 46 of 1958, s. 7 (w.e.f. 1-11-1956).

(3) In this section "continuing Judge" means a Judge of a former High Court in a Part B State who on the 1st day of November, 1956, or on any date subsequent thereto has become or been appointed as a Judge of a High Court for a State.]

Special provision in respect of Judges transferred from the High Court of Jammu and Kashmir.

23C. (1) In the calculation of service for pension of a Judge of the High Court of Jammu and Kashmir transferred to any other High Court, his service for pension as a Judge of the High Court of Jammu and Kashmir shall also be reckoned as service for pension under this Act.

(2) In the calculation of the amount of leave at the credit of a Judge of the High Court of Jammu and Kashmir transferred to any other High Court, the amount of leave due to him as a Judge of the High Court of Jammu and Kashmir shall be added to the amount of leave at his credit under this Act.

Power to make rules.

24. (1) The Central Government, by notification in the Official Gazette, make rules[2] to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) leave of absence of a Judge ;

(*b*) pension payable to a Judge ;

(*c*) travelling allowances to a Judge ;

(*d*) facilities for medical treatment and other conditions of service of a Judge ;

(*e*) any other matter which has to be, or may be, prescribed.

[3][(3) All rules made under this section shall be laid for not less than thirty days before each House of Parliament as soon as may be after they are made and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.]

Savings.

25. [4][(1)] Nothing contained in this Act shall have effect so as to give to a Judge who is serving as such at the commencement of this Act less favourable terms in respect of his allowances or his rights in respect of leave of absence (including leave allowances) or pension than those to which he would be entitled if this Act had not been passed.

46 to 1958.

[5][(2) Nothing contained in this Act, as amended by the High Court Judges (Conditions of Service) Amendment Act, 1958, shall have effect so as to give to a Chief Justice or a Judge of a former High Court in a Part B State less favourable terms in respect of his allowances or his rights in respect of leave of absence (including the leave allowances) or pension than those to which he would be entitled under the High Court Judges (Part B States) Order, 1953, or any other order or rule than applicable to him, if he had continued as a Judge of that High Court, his service as a Judge on or after the 1st day of November, 1956, being treated as service in that High Court.]

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1. Inserted by Act 27 of 1964. (w.e,f. 30-9-64).
2. For the High Court Judges (Part A States) Rules, 1956 *see* Gazette of India, 1956, Pt. II Sec. 3, p. 106.
3. Subs. by Act 46 of 1958, s. 1, for the original sub-section (w.e. f. 1-11-1956).
4. S. 25 re-numbered as sub-section (1) of that section by s. 9, *ibid.* (w.e.f. 1-11-1956).
5. Ins by Act 46 of 1951, s. 9 (w.e.f. 1-11-1956),

THE FIRST SCHEDULE

(*See* sections 14 and 15.)

PENSIONS OF JUDGES

PART I

1. The provisions of this Part apply to a Judge who is not a member of the Indian Civil Service or has not held any other pensionable civil post under the Union or a State and also apply to a Judge who, being a member of the Indian Civil Service or having held any other pensionable civil post under the Union or a State, has elected to receive the pension payable under this Part.

2. Subject to the other provisions of this Part, the pension payable to a Judge to whom this Part applies and who has completed not less than seven years of service for pension shall be the basic pension specified in paragraph 3 increased by the addition pension, if any, to which he is entitled under paragraph 5.

3. The basic pension to which such a Judge shall be entitled shall be—

(*a*) for the first seven completed years of service for pension, Rs. 5,000 per annum ; and

(*b*) for each subsequent completed year of service for pension, a further sum of Rs, 1,000 per annum:

Provided that the basic pension shall in no case exceed Rs. 10,000 per annum.

4. For the purpose of calculating additional pensions, service as a Judge shall be classified as follows :—

Grade I. Service as Chief Justice in any High Court ;

Grade II. Service as any other Judge in any High Court.

5. For each completed year of service for pension in either of the grades mentioned in paragraph 4, the Judges who is eligible for a basic pension under this Part shall be entitled to the additional pension specified in relation to that grade in the second column of the table annexed hereto :

Provided that the aggregate amount of his basic and additional pension shall not exceed the amount specified in the third column of the said table in relation to the higher grade in which he has rendered service for not less than one completed year.

TABLE

Service	Additional pension per annum	Maximum aggregate pension per annum
	Rs.	Rs.
Grade I	740	20,000
Grade II	470	16,000

6. A Judge who has rendered service for pension in both the grades may claim that any period of service of less than a completed year rendered by him in the higher grade, or any portion of any such period shall be treated for the purposes of paragraph 5 as service rendered by him in the lower grade.

7. For the purposes of this Part, service as an acting Chief Justice of a High Court or as an *ad hoc* Judge of the Supreme Court shall be treated as thought it were service rendered as Chief Justice of a High Court.

8. Notwithstanding anything contained in the foregoing provisions of this Part, the pension payable to a Judge who has completed twelve years of service for pension, including not less than six years of service as Chief Justice of one or more of the High Court shall be Rs. 20,000 per annum.

9. Where a Judge to whom this Part applies retires or has retired at any time after the 26th January, 1950 without being eligible for a pension under any other provision of this Part, then, notwithstanding any contained in the foregoing provisions, a pension of Rs. 6,000 per annum shall be payable by such a Judge :

[1][Provided that nothing in this paragraph shall apply—

(*a*) to an additional Judge or acting Judge ; or

(*b*) to a Judge who at the time of his appointment is in receipt of a pension (other than a disability or wounded pension) in respect of any previous service under the union or a State.]

PART II

1. The provisions of this Part apply to a Judge who is a member of the Indian Civil Service and who has not elected to receive the pension payable under Part I.

2. The pension payble to such a Judge shall be—

(*a*) the pension to which he is entitled under the ordinary rules of the Indian Civil Service if he had not been appointed a Judge, his service as a Judge being treated as service therein for the purpose of calculating that pension ; and

(*b*) the additional pension, if any, to which he is entitled under paragraph 3.

[2][3. If such a Judge has completed not less than seven years of service for pension in a High Court, he shall be entited to an additional pension in accordance with the following scale :—

	Per annum. Rs.
For seven completed years of service for pension...	...1,333
For eight completed years of service for pension...	...1,600
For nine completed years of service for pension...	...1,866
For ten completed years of service for pension...	...2,133
For eleven completed years of service for pension...	...2,400
For twelve or more completed years of service for pension	...2,666.]

PART III

1. The provisions of this Part apply to a Judge who has held any civil pensionable post under the Union or a State (but is not a member of the Indian Civil Service) and who has not elected to receive the pension payable under Part I.

2. The pension payable to such a Judge shall be—

(*a*) the pension to which he is entitled under the ordinary rules of his service if he had not been appointed a Judge, his service as a Judge

1. Added by Act 46 of 1958, s. 10 (w.e.f. 1.11-1956).

2. Subs. by s. 10, *ibid.*, for the original paragraph (w.e.f. 1-11-1956).

being treated as service therein for the purpose of calculating that pension ; and

(b) a special additional pension of Rs. 500 per annum in respect of each completed year of service for pension but in no case such additional pension together with the additional or special pension, if any, to which he is entitled under the ordinary rules of his service, shall exceed Rs. 2,500 per annum.

THE SECOND SCHEDULE

(*See* section 17.)

INJURY GRATUITIES AND PENSIONS

Officer	Gratuity	Annual Pension	
		Higher Scale	Lower Scale
	Rs.	Rs.	Rs.
1. Chief Justice	20,000	5,400	4,700
2. Any other Judge	18,500	4,700	4,000

FAMILY GRATUITIES AND PENSIONS

A. Widow

Officer	Gratuity	Annual Pension
	Rs.	Rs.
1. Chief Justice	15,000	5,000
2. Any other Judge	18,500	4,000

B. Children

Officer	Annual Pension	
	If motherless	If not motherless
	Rs.	Rs.
1. Chief Justice	550	820
2. Any other Judge	550	820

APPENDIX LXVI

HIGH COURT JUDGES TRAVELLING ALLOWANCE RULES, 1956

1. These rules may be called the High Court Judges Travelling Allowance Rules, 1956.

1-A. *Definitions* —In these rules, unless the context otherwise requires,—

(a) "headquarters" means—

(i) in relation to a Judge directed by the Chief Justice to perform his normal duties for a period exceeding three months at a place other than the principal seat of the High Court such place ; and

(ii) in other cases, the principal seat of the High Court ;

(b) "Judge" includes an acting Judge and an additional Judge.

2. (1) When a Judge travels on duty, he is entitled—

(a) When travelling by railway, to a reserved two-berth compartment of the highest class including air-conditioned, and if one such compartment is not available then to a reserved four-berth compartment of the highest class (but excluding air-conditioned) and the fares at lowest class rates actually paid for servants not exceeding two in number ;

(b) when travelling by a steamer service, to one reserved first-class cabin, if available, or to the fare actually paid for himself, and the fares at lowest class rates actually paid to the steamer service for servants not exceeding two in number subject to usual deductions on account of messing charges ;

(c) when travelling by a public air transport service, to the fare paid for himself and, if actually paid, the cost of transporting up to two maunds of laggage by rail at passenger rates, or steamer fares of the lowest class for servants exceeding two in number, and the expenditure actually incurred on the transport by road of servants or luggage up to a maximum of 8 annas per mile of that part of the journey by road for which no allowance is claimed under clause (d) of this sub-rule ;

(d) when travelling by road, to an allowance at the rate of Re. 1 per mile :

Provided that—

(i) no such allowance shall be payable in respect of that portion of a journey by road for which a public air transport service provides its own transport and the fare for which journey is included in the air fare paid under clause (c) for the air journey ;

(ii) no mileage allowance shall be admissible for journeys undertaken within a radius of five miles from the residence of the Judge or for a journey between such residence or temporary residence and the place of sitting of the High Court or of a Bench of the High Court ; and

(iii) where daily allowance is admissible and is claimed for any day, no mileage allowance shall be admissible in addition in respect of any journey undertaken by road within a radius of five miles from the temporary rssidence of the Judge at the place of halt ;

(iv) no such allowance shall be payable in cases where the Judge uses transport provided at Government expense ;

(e) to a daily allowance at the rate of Rs. 15 in respect of any period (including Sundays and other holidays) of that on duty outside his headquarters :

Provided that—

(i) when a Judge is required to perform functions outside his normal duties in localities away from his headquarters he may, subject to such conditions as the President may in each case determine, be granted daily allowance not exceeding Rs. 25 in respect of ordinary localities and daily allowance not exceedings Rs. 30 and transport charges not exceeding Rs. 10 per day in respect of specially expensive localities, like Bombay, Calcutta or any other locality so declared hereafter by the President ;

(i-a) when a Judge is required to perform his normal duties away from his headquarters and in specially expensive localities like Bombay or any other locality so declared hereafter by the President, he may be granted a daily allowance of Rs. 20 ;

(ii) when a Judge is required to perform similar functions, whether part-time or whole-time in his own head quarters, he shall not be paid any allowance or charges unless the special work involves extra expense in which case he may be granted such allowance not exceeding Rs. 25 per day as the President may in each case determine ;

(iii) when a Judge is a State guest, the daily allowance shall be restricted to 25 per cent. of the amount admissible or sanctioned ;

(iv) when a Judge proceeds on duty to the Andaman and Nicobar Islands, the period from the date of his departure from the mainland to the date of his return to the mainland shall be treated as a period of halt on duty ;

(f) to the expenditure, if any, actually incurred on the transport by passenger train or steamer at owner's risk of motor car, and the fare at the lowest class rate actually paid to a railway or steamer service in respect or one driver or cleaner for the car.

(2) If any person (other than servants) accompany a Judge in a compartment or cabin reserved for him under sub-rule (1), fares shall be payable by him on their account, and the fares so paid shall, if full tariff rates have been paid by Government for the reserved accommodation, be credited to Government.

(3) For the purpose of this rule—

(i) all journeys to and from headquarters shall be deemed to commence and terminate at the Judge's residence at headquarters or as the case may be, at an out-station ;

(ii) a Judge shall be deemed to be travelling on duty when, during a vacation of the High Court, he proceeds from any place in India where he was spending the vacation for the purpose of doing duty in the High Court and returns to such place after completion of such duty.

3. (1) When a Government servant, appointed to be a Judge travels by railway to join his post, he may, at his option and in lieu of drawing travelling allowance under the ordinary rules governing a journey or transfer applicable to him, travel in a reserved compartment of the highest class, excluding air conditioned.

(2) A Government servant availing himself of this concession must pay to Government the fare which he would have paid if no accommodation had been

reserved, and must in addition, pay in cash to the station master of the station from which the journey commences, the fares for any members of his family accompanying him, whether they share his reserved accommodation or not. When Government pays full tariff rates for the accomodation, all such fares will be credited Government.

Explanation —For purpose of rules 3, 4, 5 and 6 a reserved compartment means a two-berthed compartmant or a four-berthed compartment if a two-berthed compartment is not available in the train by which a Judge travels.

4. When a person not already in Government service is appointed to be a Judge, he may, when travelling by railway to join his post, travel in a reserved compartment of the highest class, excluding air conditioned and subject to the conditions prescribed in sub-rule (2) of rule 3.

5. When a Judge—

(a) proceeds on, returns from leave, or

(b) proceeds on ,or returns from, vacation spent outside India, or

(c) retires from service, or

(d) proceeds to join another post after resigning office,

he may, when travelling in a railway, travel in a reserved compartment of the highest class, excluding air conditioned and subject to the conditions prescribed in sub-rule (2) or rule 3 :

Provided that in the case of journey on retirement from service this entitlement will lapse, if the journey is not completed within six months from the date of retirement.

6. When a Judge is transferred from one High Court to another, or from or to the place of the principal seat of the High Court from one headquarter to another, he shall be entitled to the expenditure actually incurred by him on his journey for the transport of—

(a) when travelling by rail or by steamer—

(i) the Judge himself, by a reserved compartment or cabin of highest class, excluding air conditioned ;

(ii) member of his family not travelling in the reserved compartment or cabin, in the highest class of accommodation excluding air conditioned ;

(b) when travelling by road—

(i) the Judge himself at the rate of Rs. 2 per mile ;

(ii) for every member of his family accompanying him up to a maximum of four members at the rate of 8 annas per mile :

Provided that when any portion of the journey can be performed by railway, the allowance claimed in respect of that portion shall not exceed the amount admissible had the Judge and the members of his family travelled on such portion by railway by the highest class, excluding air-conditioned ;

(c) when travelling by air, the Judge himself and the members of the family by a public air transport service ;

(d) personal servants, not exceeding four in number, by passenger train or steamer or by public road transport service at lowest class rates ;

(e) one motor car, by passengar train or steamer at owner's risk ;

and

(f) other personal effects, not exceeding the expenditure which would be incurred in the transport of 60 maunds of goods by road and by goods train or steamer, and the expenditure incurred in embarking and disembarking such personal effects.

Explanation.—For the purpose of this rule, member of a Judge's family means his wife, his children and his step-children, normally residing with and wholly dependent on him.

7. Where by reason of a change in the principal seat of the High Court a Judge changes his ordinary place of residence, he is entitled to the same allowances as on transfer from one High Court to another.

8. *Repeal and saving* —(1) The High Court Judges (Part a States) Travelling Allowance Rules, 1950, are hereby repealed.

(2) Notwithstanding such repeal, nothing contained in these rules shall have effect so as to give to a Judge who is serving as such at the commencement of these rules less favourable terms in respect of his travelling and daily allowances than those to which he would be entitled if these rules had not been made.

XXV. ARTICLE 226.

RULES FRAMED BY THE HIGH COURTS UNDER ARTICLE 226 OF THE CONSTITUTION.

A. ORISSA.

The following rules have been made by the High Court of Judicature, Orissa in exercise of the powers vested on them under Article 225 of the Constitution of India to regulate its proceedings under Article 226 for the issue of directions, orders or writs including writs in the nature of Mandamus, Prohibition Quo-warranto and Certiorari other than writs in the nature of Haveas Corpus.

1. An application for a direction or order or writ in the nature of Mandamus, Prohibition, Quo-warranto or Certiorari shall be made to the Division Bench presided over by the Chief Justice and if no such Bench is sitting or if the Chief Justice so directs, to any other Division Bench of the Court:

Provided that when a Division Bench is not available and in all cases when a single Judge functions as the Vacation Judge, a single Judge may entertain an application but no final orders shall be passed by such single Judge.

2. The application shall be accompanied by a statement setting out the name and description of the applicant, the relief sought and the grounds on which it is sought, and by an affidavit verifying the facts relied upon.

It shall also be accompanied by an authenticated or attested copy of the order or orders, if any, against which the application is made :

Provided that the Court may, in its discretion dispense with the production of the same.

3. Unless the Court otherwise directs, the application shall be heard at least eight clear days after the service of notice of the application upon the person specified in rule 4.

4. Unless the Court sees no sufficient cause to admit the application and rejects it, notice of the application shall be served on all persons directly affected by the application, and where the application relates to any proceedings in or before a Court or authority, and the object is either or to compel the Court or any officer thereof or any authority to do any act in relation to such proceedings or to quash them or any order made therein, notice shall also be served on such Court or officer or authority as the/case may be, as well as the other parties to the proceedings. Every notice under this rule shall be accompanied by copies of the application and affidavit.

5. At the hearing of the application, any person who desires to be heard in opposition to the application and appears to the Court to be a proper person to be heard, may be heard notwithstanding that he has not been served with notice under rule 4 and shall be liable to costs in the discretion of the Court if the order shall be made.

6. No order, direction or writ under this Chapter shall be issued if adequate relief is obtainable by the applicant by any other process of law.

7. All questions arising for determination under this chapter shall ordinarily be decided upon affidavits, but the Court may direct that such questions as it may consider necessary be decided on such other evidence as it may deem fit. where the Court orders that certain matters in controversy between the parties shall be decided on such evidence, the procedure prescribed in the Code of Civil Procedure, 1908, for the trial of suits shall, so far as applicable, be followed.

8. In case of difference of opinion between the Judges composing the Division Court, the application shall be refered to and heard by such Judge or Judges as the Chief Justice may appoint and shall be decided according to the opinion of the majority of Judges who have heard the application including those who first heard it. The application shall be re-argued before the Judge or Judges to whom it is referred, either sitting apart from, or with, the referring Bench as the Chief Justice shall direct.

9. The Court may in proceedings under this Chapter, impose such terms as to costs and as to the furnishing of security, as it thinks fit.

B. MYSORE

The High Court of Mysore, in the exercise of its rule making powers vested in it under Article 227 of the Constitution of India, and with the previous approval of His Highness the Maharaja, the Rajpramukh of Mysore, hereby makes the following rules to regulate the procedure to be followed for the disposal of applications for the issue of writs under Article 226 of the Consititution of India.

PART I

WRITS IN THE NATURE OF HABEAS CORPUS

1. The rulss framed by the High Court under Section 491 of the Code of Criminal Procedure and published under High Court Notification No.R.Dis. 8 of 1948-49, dated 14th August 1948, shall apply *mutatis mutandis* to applications for writs in the nature of *habeas corpus* under Article 226 :

Provided that during vacation such applications may be disposed of by a single Judge.

2. "The provisions of Rule 5 in Part II of these Rules shall apply *mutatis mutandis* also to applications for writs in the nature of Habeas Corpus under Article 226 of the Constitution".

PART II

WRITS FOR ANY OTHER PURPOSE INCLUDING WRITS IN THE NATURE OF MANDAMUS PROHIBITION, QUO WARRANTO AND CERTIORARI

1. An application for the issue of any of the aforesaid writs shall be entitled "in the matter of an application for the issue of the writ of (here mention the name of the particular writ) under Article 226 of the Constitution of India."

2. An application for the issue of any of the above writs shall state the name and description of the applicant, who shall be called the 'petitioner', the particular relief sought and the grounds on which it is sought and shall be supported by an affidavit. The opposite party against whom the order is sought shall be called the 'respondent'.

3. Every such application shall state whether the applicant has exhausted all other legal remedies open to him to get redress.

4. Every such application shall be presented in the manner required by Rules (1) and (2) of the High Court Rules and the applicant shall also furnish two copies of such application and affidavit.

5. "A Court-fee of Rs. 20/- shall be paid on every writ application except in respect of writ application in the nature of *Habeas Corpus*, in which case a Court-fee of Rs. 2/- need only be paid. All applications presented under the above rules including those for writs in the nature of Habeas Corpus shall be registered as 'Writ Petitions'. Every such application shall be heard by a Division Bench except during vacation, when it may be heard by a single Judge".

6. Every such application shall be posted in this first instance for hearing the petitioner or his counsel ; and the Division Bench before which it is posted, may on the day fixed, either dismiss summarily the application after hearing the petitioner or his counsel if he appears, or order notice to the respondent calling upon him to appear on a day named therein, to show cause why the application should not be granted Unless the Court otherwise, directs there shall be at least fourteen clear days between the service of the notice on the respondent and the day named therein for the hearing of the application.

7. If the Court orders notice to be issued to the respondent, it may pass such interim order in the case, either unconditionally or upon such terms as the Court thinks just, as the nature and circumstances of the case require. The notice ordered as above along with a copy of the interim order, if any, and a copy of each of the application and affidavit shall be served on the respondent in the manner prescribed for the service of summons upon a defendant in a suit. The petitioner shall furnish within two days from the date of order directing issue of notice, a copy each of the said application and affidavit and, if there are more respondents than one, as many copies of them as there are respondents, for being served on the other party along with the notice.

8. The respondent shall file an affidavit in reply in the office of the Registrar and serve a copy thereof upon the applicant or his Advocate as the case may be, at least two days before the date of hearing mentioned in the notice.

9. The Court in its discretion may at any time before the final order is made direct that the notice be served on any party to be affected by any order which the Court may make in the matter and the procedure prescribed in the above rules for service of notice and filing of an affidavit in reply shall be followed in such a case.

10. If any material question is put in issue either in the application showing cause or in the affidavit in answer to it the Court may allow oral testimony of witnesses, to be taken adjourning the hearing to some other date. Either party in such a case may take summonses to witnesses and the procedure shall be similar to that followed in a suit.

11. In case difference of opinion between the Judges composing the Division Bench any point of difference between them shall be referred to a Full Bench comprising not less than three Judges and the decision of the majority of the Judges comprising the full Bench shall be the decision of the High Court.

12. The costs and orders made in these proceedings shall be in the discretion of the Court.

13. Subject to these rules, the provisions of the rules with respect to Civil suits and matters shall apply, so far as may be, to all proceedings under Article 226.

C. NAGPUR

PART II

DIRECTIONS, ORDERS AND WRITS INCLUDING WRITS IN THE NATURE OF MANDAMUS, PROHIBITION, CERTIORARI, QUO-WARRANTO, ETC. (EXCEPT HABEAS CORPUS)

1. (a) A petition for a direction or order or writs including writs in the nature of Mandamus, Prohibition, Certiorari and Quo Warranto, etc , shall comple with the provisions of Rules 2 and 3 of Chapter 4 of the Rules of the High Court, and shall also state—

(i) the name, description and place of residence of each petitioner and of the/opposite party ;

(ii) the grounds on which the relief is sought and also such material facts as may be necessary for the proper determination of the case ;

(iii) the nature of the relief and the direction, order or writ sought for from the Court ;

(iv) where a previous petition has been made on the same facts, the petitioner shall give all details thereof, and shall also indicate the decision thereon.

(b) The petition shall be accompanied by the order or decision (if any) complained of and an affidavit verifying the facts relied on and two copies of the said order, petition and affidavit. This rule shall apply also *mutatis mutandis* to any interlocutory application made by any party.

(c) When a petitioner relies upon a document or documents in his possession or power, he shall file them along with his petition.

(d) When he relies on any other documents, which are not in his possesion or power, as evidence in support of his petition, he shall enter such documents in a list to be added or annexed to the petition.

2. No advocate shall act for any person in these proceedings, unless he has been appointed for the purpose by such person by a document in writing signed by such person or by his recognized agent or by some other person duly authorised by or under a power-of-attorney to make such appointment.

3. Such petitions shall be registered as "Miscellaneous Petitions" (Mandamus, Prohibition, Certiorari or Quo Warranto, etc.), as the case may be.

4. Such petitions shall be heard by a Single Judge provided that if the Single Judge so directs it shall be heard by a Division Bench.

5. The petition shall be laid before the appropriate Bench as early as possible for motion hearing of which notice shall be given to the petitioner or his agent or counsel.

6. The Court may either summarily dismiss the petition or order a rule *nisi* to be issued against the opposite party, as it thinks fit. Any rule so granted shall be made returnable on such day as the Court may direct, but it shall not ordinarily make returnable within less than 14 days after service thereof on the opposite party.

7. The petitioner shall deposit the necessary process-fee within three days or such time as the Court may order of the admission of the petition along with as many copies of the petition and affidavit as there are opposite parties.

8. Copies of the petition and affiidavit shall be served with the notice.

9. Notice shall be served on all opposite parties and on such other persons as the Court may direct :

Provided, that at the hearing of any such petition, any person who desires to be heard in opposition to it and appears to the Court to be proper person to be heard may be heard, notwithstanding that he has not been served with the notice, and shall be liable to costs in the discretion of the Court.

10. If, at the hearing of the petition, the Court is of opinion that any person who ought to have been served with notice of the petition has not been served with notice of the petition has not been served, the Court may order that notice may also be served on such person and adjourn the hearing upon such terms, if any, as the Court may direct.

11 (a) An answer to the rule *nisi* showing cause against such petitions shall be made by filing in the Registry a return duly supported by an affidavit and by serving a copy thereof upon the petitioner or his agent or advocate at least two days before the date of the return of the rule.

(b) Where the opposite party relies upon a document or documents in his possession or power, he shall file them along with his return.

(c) Where he relies on any other documents which are not in his possession or power as evidence in support of his return, he shall enter such documents in a list to be added or annexed to the return.

12. No further return, affidavit or document shall be filed by any party except with the leave of the Court.

13. If the court at any time finds that the facts furnished are insufficient or further and better particulars of any matter should be furnished, the Court may, of its own motion, or on the application of any party, order any party to furnish such facts or particulars supported by an affidavit. If the petitioner or any other party fails to furnish the facts or particulars as ordered, the Court may either dismiss the petition or make such order in relation to the case as it thinks fit.

14. (a) All question of facts arising for determination under this Part shall be decided ordinarily upon affidavits, but the Court may direct that such other evidence be taken as it may deem fit.

(b) Where the Court orders that certain matters in controversy between the parties shall be decided on oral evidence, it may either itself record the evidence or may direct any Court or Tribunal or a Commission appointed for the purpose to record it in accordance with the procedure prescribed in the Code of Civil Procedure, 1908, for the Trial of suits.

15. An application for any order of an interlocutory nature shall not be embodied in the main petition, but shall be made by a separate application.

16. An Application for issue of an interim order, unless accompanied by an application for urgent disposal, it shall be laid before the appropriate Bench as early as possible.

17. (a) No record of a case or proceeding in possession of any Court or public servant, relevant to the disposal of an application, shall be sent for, unless, ordered by the Court either of its own motion or upon an application made by any of the parties to the petition.

(b) Every application made under Rule 17 (a) shall (unless the Court otherwise direct) be supported by an affidavit showing how the record in material to the case in which the application is made, and that the applicant cannot,

without unreasonable delay or expense, obtain a duly authenticated copy of the record or of such portion thereof as the petitioner requires, or that the production of the original is necessary for the purpose of justice.

18. The opposite party shall along with the return, affidavit and documents file four identical copies thereof on plain paper for preparation of paper-books.

19. Within three days of the order of issue of the rule *nisi*, the petitioner shall supply four identical copies on plain paper of the petition, affidavit and documents for insertion in the paper-books.

20. (a) All documents not in English shall be translated into English by the official translator of the Court before being included in the paper-books at the cost of the party relying upon them, unless exempted by the Court.

Such payment shall be made within such time as may be fixed by the Registrar.

(b) The attention of the Court shall be invited at the hearing to the costs of the above translation for orders.

21. Should the parties fail to file the identical copies as required by Rules 18 and 19, within the period prescribed, the case shall be laid before the Court for orders.

22. Ordinarily only four copies of the paper-books shall be prepared in the Registry-one for the petitioners one for the opposite party and the remaining two for the use of the Court :

Provided that in any case, the Registrar may order that the paper-book be given to any opposite party other than party No. 1.

23. If any other party desires to have a copy of the paper-book, he shall make an application for that purpose at least a week before the date of hearing. If the application is allowed by the Registrar, a copy of the paper-book shall be supplied to the applicant on payment of the cost.

24. The Court may in such proceedings impose such terms as to costs as it thinks fit.

25. The Court may in its discretion, either before the opposite party is called upon to appear and answer or afterwards on the application of the opposite party, demand from the petitioner security in cash unless otherwise ordered by the Court for the costs of the petition.

26. The rules regarding deposit or withdrawal of money in Chapter XII of the High Court Rules shall apply to the deposit or withdrawal of security ordered under Rule 25.

27. At the conclusion of each case, the Court shall pass such orders for the refund or disposal of the security in deposit as it may consider necessary. When the Court fails to make an order, the party entitled to the refund or payment shall make a stamped application for the purpose, and it shall be laid before the Court for orders in motion.

28. Any party to a proceeding under Article 226 of the Constitution of India desiring to obtain execution of the order relating to costs awarded in such proceedings shall apply to the Court by a stamped petition.

29. The Court, thereupon, shall direct the party against whom the costs are awarded to deposit the amount in Court within such time as it deems fit ; and upon his failure to deposit the amount within the prescribed period, the Court shall order issue of a certificate for the recovery of costs, and may also include the costs of the proceedings before it.

30. The certificate shall be issued under the signature of the Deputy Registrar and the seal of the Court and shall be executable as a decree of a Civil Court.

31. The certificate shall be executable by the District Judge of the civil district in which the party from whom the costs are to be recovered actually resides or carries on business or works for gain or has some property

32. The Court to which the certificate is issued shall execute it as a decree received on transfer for execution from another Court.

33. The form of the certificate shall be as prescribed in these rules.

NOTICE

GENERAL FORM

Miscellaneous Petition (Mandamus/Prohibition/Certiorari/Quo Warranto)

No.....of 19

.....Petitioner.

.....Opposite party.

To

.....

.....

WHEREAS a petition has been made in the above case by the petitioner for a writ of Mandamus/Prohibition/Certiorari/Quo Warranto under Article 226 of the Constitution of India (copy of petition enclosed) :

Take notice that the.....day of.....19 has been fixed for hearing, and the said petition will be laid before the Court on that day or as soon thereafter as may be practicable. If no appearance is made on your behalf, either or through Counsel or some one legally authorised to act for you, it will be heard and decided *ex parte*.

If you desire to file a return in answer to the petition, your attention is drawn to sub-rules (a), (b) and (c) of Rule 11 and Rules 12 and 18, Part II, of the Rules regulating proceedings for directions, orders and writs in the nature of Mandamus, Prohibition, Certiorari and Quo Warranto, etc., printed over leaf.

Given under my hand and the seal of the High Court of Judicature at Nagpur, this..... day of.....19 .

By order of the High Court

Superintendent,
Judicial Branch.

Forwarded to the .....for favour of service and immediate return of the original duly endorsed. The necessary process-fee has been levied.

Superintendent,
Judicial Branch.

RULE 11 (a)—An answer to the rule nisi showing cause against such petitions shall be made by filling in the Registry a return duly supported by an affidavit and by serving a copy thereof upon the petitioner or his agent or advocate at least two days before the date of return of the rule.

(b) Where the opposite party relies upon a document or documents in his possession or power, he shall file them along with his return.

(c) Where he relies on any other documents which are not in his possession or power as evidence in support of his return, he shall enter such documents in list to be added or annexed to the return.

RULE 12.—No further return, affidavit or document shall be filed by any party except with the leave of the Court.

RULE 18.—The opposite party shall along with the return, affidavit and documents file four identical copies thereof on plain paper for preparation of paper-books.

IN THE HIGH COURT OF JUDICATURE OF MADHYA PRADESH
AT JABALPUR.

No. M.P.

From

Shri_____,
Deputy Registrar,
High Court of Judicature of
Madhya Pradesh, at JABALPUR.

To

Jabalpur the _____ th _____ 195

SUBJECT :—Notice to non-applicant No _____ in Miscellaneous Petition (Mandamus/Prohibition)/Certiorari/Quo Warranto) No of 195 .

Sir,

I am directed to inform you that one _____ has filed a Petition under article 226 of the Constitution of India (Copy enclosed) in this Court and the same has been registered as Miscellaneous Petition (Mandamus/Prohibition/Certiorari/Quo Warranto) No. _____ of 195 .

Take notice that the said petition has been fixed for hearing on the _____ day of _____ and that the case will be laid before the Court on that day or as soon thereafter as may be practicable. If no appearance is made on your behalf either in person or through counsel or some one duly authorised to act for you, it will be heard and decided exparte.

If you desire to file a return in answer to the Petition your attention is drawn to sub-rules (a) (b) and (c) of Rule 11 and Rules 12 and 18 part II of the Rules regulating proceedings for directions, orders and writs in the nature of mandamus, prohibition, certiorari and Quo Warranto.

I am to request you for an immediate acknowledgment of this letter.

Yours faithfully,
Deputy Registrar.

Rule 11. (a) An answer to the rule nisi showing cause against such petitions shall be made by filing in the Registry a return duly supported by an affidavit and by serving a copy thereof upon the petitioner or his agent or Advocate at least two days before the date of return to the rule.

(b) Where the opposite party relies upon a document or documents in his possession or power, he shall file them along with his return.

(c) Where he relies on any other documents which are not in his possession or power as evidence in support of his return, he shall enter such documents in a list to be added or annexed to the return,

Rule 12. No further return, affidavit or document shall be filed by any party except with the leave of the Court.

Rule 18. The opposite party shall along with the return affidavit and documents file four identical copies thereof on plain paper for preparation of P. Bks.

HIGH COURT OF JUDICATURE AT NAGPUR.

Miscellaneous Petition (Mandamus/Prohibition/Certiorari/Quo Warranto)

No..... of 19 .

... .versus The State of Madhya Pradesh (and others).

To

The State of Madhya Pradesh,
through the Chief Secretary to Government,
Madhya Pradesh, Nagpur.

WHEREAS a petition has been made to this Court under Article 226 of the Constitution of India on behalf of the petitioner, the Division/Single Bench of the High Court, presided in by ....in presence of.....Counsel for the petitioner, and Advocate-General/Government Pleader, Counsel for the opposite party, has ordered that—

.....

.....

.....

The costs of the petition will be borne by...

Given under my hand and the seal of the High Court of Judicature at Nagpur, this——— day of———19 .

By order of the High Court,
Deputy Registrar.

(Seal of the Court)

HIGH COURT OF JUDICATURE AT NAGPUR.

CERTIFICATE OF NON-SATISFACTION OF COSTS.

Miscellaneous Petition No. of 19 .

WHEREAS the petitioner/respondent in the above case has applied to this Court for recovery of costs amounting to Rs. _____ from respondent/petitioner and the latter has failed to deposit the amount of Rs._____ payable to the Petitioner/respondent ;

AND WHEREAS a Bench of this Court consisting of the Honourable Shri Justice _____and the Honourable Shri Justice _____has ordered issue of a certificate.

It is hereby certified that the petitioner/respondent is entitled to recover the amount of Rs._____from respondent/petitioner.

Given under my hand and the seal of the High Court of Judicature at Nagpur this day, the 19 .

By order of the High Court,
Deputy Registrar.

Seal.

Forwarded to the District Judge at_____ for necessary action.

Deputy Registrar.

D. ALLAHABAD

I. *Habeas Corpus.*

and

RULES UNDER SUB-SECTION (2) OF SECTION 491 OF THE CODE OF CRIMINAL PROCEDURE, 1898.

1. *Application.*—(1) An application under sub-section (1) of section 491 of the Code of Criminal Procedure, 1898, or for a writ in the nature of habeas corpus if not sent by post, shall be made to the Division Bench appointed to receive applications or, on any day on which no such Bench is sitting, to the Judge appointed to receive applications in criminal matters. In the latter event the Judge shall direct that the application be laid before a Division Bench for orders.

(2) The application shall set out concisely in numbered paragraphs the facts upon which the applicant relies and the grounds upon with the Court is asked to issue a writ or direction and shall conclude with a prayer stating clearly, so far as circumstances permit, exact nature of the relief sought.

2. *Application by post.*—The application if received by post shall be put up as soon as possible before a Division Bench for orders.

3. *Contents of application and affidavit.*—The application shall be accompanied by an affidavit of the person restrained stating that it is made at his instance and setting out the nature and the circumstances of such restraint. It shall also state if any previous application was filed or not on his behalf and, in case such application was filed, its result :

Provided that where the person restrained is unable owing to the restraint to make the affidavit, the application shall be accompanied by an affidavit to the like effect made by some other person, and such affidavit shall also state the reason why the person restrained is unable to make the affidavit himself.

The application shall also be accompanied by an affidavit or affidavits in proof of any other facts referred to in the application.

The affidavits filed under this Rule shall be restricted to matters which are within the deponent's own knowledge.

4. *Application by a Court-martial or any Commissioner.* Where the application is on behalf of a Court-martial or any Commissioner's it may be in the form of a letter addressed to the Registrar setting out the circumstances in which the order is sought and need not be accompanied by an affidavit. The Registrar shall lay the letter as soon as possible before a Division Bench for orders.

5. *Contents of application under section 491 (1) (e), Criminal Procedure Code 1898.* Where the application is for an order under clause (e) of sub-section (1) of section 491 of the Code of Criminal Procedure, 1898, the affidavit accompanying it shall state in whose custody the prisoner is detained, to what other custody it is proposed to remove him and the reason for the change of custody. Before any orders are passed, notice of such application shall also be served upon the prisoner and he shall be given an opportunity to be heard against such application.

6. *Warrant.* In any case in which the Court orders any person in custody to be brought before it, or before a Court-martial, or before any Commissioners, or to be removed from one custody to another, a warrant shall be prepared and signed by the Registrar and sealed with the seal of the Court.

7. *Service of warrant.*—Such warrant shall, where the person is under detention in a jail, be forwarded by the Registrar to the office in charge of the jail in

which the prisoner is confined ; in every other case the warrant shall be served upon the person to whom it is directed personally or otherwise as the Court may direct.

8. *Notice.*—If the Court does not find sufficient reason to admit the application, it may reject it. Where the application is not so rejected, notice thereof shall be served upon the person against whom the order is sought calling upon him to appear on a day to be named therein to show cause why the application should not be granted, and, if the Court so orders, the notice may also direct such person at the same time to produce in Court the body of the person alleged to be illegally or improperly detained then and there to be dealt with according to law.

The Court may also order that notice of the application be served upon such other person or persons as it may consider proper. A notice issued under this rule shall, if the Court so directs, be accompained by copies of the application and the affidavit, the copies being supplied by the applicant.

9. *Orders on application.* After the service of notice, on the day fixed for hearing or on any subsequent day to which the hearing may be adjourned, if no cause is shown or if cause is shown and disallowed, the Court shall, in the case of a person fund to be illegally or improperly detained, pass an order that he be set at liberty or delivered to the person entitled to his custody. In other cases the Court shall pass such orders as the circumstances of the case may require. If cause is allowed, the application shall be dismissed. The order for release made by the Court shall be a sufficient warrant to any goaler or other public servant or other person for the release of the person under restraint.

10. *Procedure.* All questions arising for determination under this Chapter shall be decided ordinarily upon affidavits, but the Court may direct that such questions as it may consider necessary be decided on such other evidence and in such manner as it may deem fit and in that case it may follow such procedure and pass such orders as may appear to it to be just.

11. *Costs.* In disposing of an application under this Chapter the Court may make such order as to costs as it may consider just.

12. *Communication of orders.* Any orders passed by the Court shall be communicated for compliance to such person or persons as may be necessary.

(II) DIRECTION, ORDER OR WRIT UNDER ARTICLE 226 OF THE CONSTITUTION OTHER THAN A WRIT IN THE NUMBER OF HABEAS CORPUS.

1. *Application.* (1) An application for a direction or order or writ under Article 226 of the Constitution other than a writ in the nature of *habeas corpus* shall be made to the Division Bench appointed to receive applications or, on any day on which no such Bench is sitting, to the Judge appointed to receive applications in civil matters. In the latter event the Judge shall direct that the application be laid before a Division Bench for orders.

(2) The application shall set out concisely in numbered paragraphs the facts upon which the applicant relies and the grounds upon which the Court is asked to issue a direction, order or writ, and shall conclude with a prayer stating clearly, so far as circumstances permit, the exact nature of the relief sought.

2. The application, if received by post shall be put up as soon as possible before a Division Bench for orders. The application shall be accompained by an affidavit or affidavits in proof of the facts referred to in the application. Such affidavit or affidavits shall be restricted to matters which are within the deponents own knowledge.

(3) Where objection is taken to any judgment or order of a court or an officer thereof the application shall be accompanied by a copy of such judgment or order and where there has been an appeal or revision from such judgment or order also by a copy of the judgment or order of the higher court.

(4) Where the Government or an officer or department of the Government, or a court, or a Tribunal, Board, Commission or other body appointed by the Government is an opposite-party named in the application, the applicant shall before presenting the application serve notice of motion upon the Government Advocate in Criminal matters and upon Standing Counsel, if he is authorized to receive notice on behalf of such opposite party, in other matters along with as many copies of the application affidavit and other papers accompanying it as may be equal to the number of parties to be represented by the Government Advocate or the Standing Counsel, as the case may be, and one extra copy for the use of the Government Advocate or the Standing Counsel, naming therein the day for the making of the motion. The application shall indicate that such notice of motion has been served. There shall be at least fourteen clear days between service of notice of motion and the day named therein for the making of the motion except where the matter is one of urgency and the permission of the court is obtained for making such motion earlier.

2. *Notice.* (1) If the Court does not find sufficient reason to admit the application it may reject it. Where the application is not so rejected, notice thereof shall be served on such opposite parties named in the application and on such other persons, if any, as the Court may direct.

Provided that unless the Court otherwise directs it shall not be necessary to serve any notice on the parties represented by the Government Advocate or the Standing Counsel as the case may be.

Provided further that where notice of motion has already been served upon the Government Advocate or Standing Counsel, as the case may be, and there is no other party io be served, the Court may dispose of it on the merits at the very first hearing.

(2) Where the application relates to any proceeding in or before a court and the object is either to compel the court or an officer thereof to do any act in relation to such proceeding or to quash it or any order made therein, notice thereof shall also be served on such court or officer as well as the other parties to such proceeding, and where any objection is taken with respect to the conduct of a judge, also on the judge.

(3) If at the hearing of the application the Court is of opinion that any person who ought to have been served with notice of the application has not been so served, the Court may order that notice may also be served on such person and adjourn the hearing upon such terms, if any, as the Court may consider proper.

(4) Every notice under this Rule shall be accompanied by copies of the application and the affidavit, such copies being supplied by the applicant.

3. *Conditions as to costs or giving of/security before issue of notice.*—The Court may, before issuing notice of the application, impose upon the applicant such terms as to costs or the giving of security as it may thing fit.

4. *Application to be heard not less than eight clear days after service of notice.* Unless the Court othewise directs, the application shall be heard not leas than eight clear days after the service of notices issued under Rule 2.

5. *Haaring person not served with notice.*—At the hearing of the application, any person who desires to be heard in opposition to the application and appears to the Court to be a proper person to be heard, may be heard not withstanding that he has not been served with notice under Rule 2.

6. *Application not maintainable if adequate relief obtainable by other process of law.*—No application under this Chapter shall be maintainable if adequate relief as obtainable by the applicant by any other process of law.

7. *No second application on same facts.*—Where an application has been rejected, it shall not be competent for the applicant to make a second application on the same facts.

8. *Procedure.*—All questions arising for determination under this Chapter shall be decided ordinarily upon affidavits, but the Court may direct that such questions as it may consider necessary be decided on such other evidence and in such manner as it may deem fit and in that case it may follow such procedure and may pass such order as may appear to it to be just.

9. *Costs.*—In disposing os an application under this Chapter the Court may make such order as to costs at it may consider just.

10. *Communication of orders.*—Any orders passed by the Court shall be communicated for compliance to such person or persons as may be necessary.

E. ANDHRA PRADESH.

RULES TO REGULATE PROCEEDING UNDER ARTICLE 226 OF THE CONSTITUTION.

By virtue of Article 225 of the Constitution of India and of all other powers hereunto enabling, the High Court makes the following rules to regulate proceedings under Article 226 of the Constitution :-

1. An application for a direction, order or Writ, including a Writ of Habeas Corpus, Mandamus, Certiorari, Quo Warranto or Prohibition shall be by original petition to be entitled 'Writ Petition No. of "and shall be filed in the office of the Registrar by the petitioner or his duly authorized advocate or attorney.

2. Every such petition shall set out the provision of law under which it is made, the name and description of the petitioner and of the respondent, the nature of the relief sought and the grounds thereof. The petition shall be signed by the petitioner or his advocate or attorney and the facts relied on by the petitioner shall be verified by an affidavit, which shall be filed along with the petition.

3. Every petition shall, soon after it is numbered, be posted for orders of Court as to issue of notice to the respodents. The Court may, upon hearing the petitioner or his advocate, either direct notice to issue and pass such interim order as it may deem necessary, or reject the petition.

4. Petitions for a direction, or writ in the natu of *habeas corpus* or relating to Elec shall be posted before a Bench of two Judges All other petitions shall be posted before e single Judge who may, if he thinks fit, refer any of them to a Bench of two Judges.

Provided that the Chief Justice may direct that any Writ Petition be posted before a Bench of two Judges.

5. Subject to the directions of the Court, notice of every petition shall be served on all parties directly affected, and, for this purpose, the petitioner shall bring in as many authenticated copies of the petition and affidavit as there are parties to be served and the prescribed process-fee.

6. At the hearing of the petition, any person who disires to be heard in opposition to the petition and appears to the Court to be a proper person to be heard shall be heard, notwithstanding that he has not been served with notice, and subject to such conditions as to costs as the Court may deem fit to impose.

7. (1) In all proceedings to which these rules apply, the Court may make such order as to cost and security as it may consider just and necessary.

(2) Where costs are awarded to a party, such costs may include the court-fees paid on the petition and other document under these rules, the costs of making copies of petition, affidavit, etc., which are furnished to the Court and which by these rules are required to be served on the opposite party or parties and the advocate's fees allowed by Court. The Court hearing the petition shall fix the advocat's fee which shall be subject to a minimum of Rs. 50/- and a maximum of Rs. 250/-.

8. (1) Every petition for a direction, order or write shall be chargeable with a court-fee Rs. 20/- other than a petition for a direction, order, or writ in the nature of a habeas corpus which shall be charged with a Court-fee of Rs, 2/-.

(2) Every Memorandnm of Appeal filed under clause 15 of the Letters Patent for the judgment of one Judge on a Petition for a direction, order or writ to which these rules apply, shall be chargeable with the same court-fee as is charged under sub-rule (1) supra, on the petition from which the appeal arises, and

(3) All other documents shall be chargeable with the same court-fee as would be charged thereon if they were presented or filed on the Appelate Side of the High Court.

Provided, however, no petiton, Memorandum of Application or document presented or filed by a person in duress or under restraint shall be chargeable with any court-fee.

9. The forms set out in the Appendix hereto shall be used, with suitable modfications wherever necessary.

10. The memorandum of appeal in an appeal against an order of a single Judge in a writ petition shall be in the form prescribed for an appeal under the Letters Patent but will be registered and numbered as a writ Appeal.

11. Such a memorandum shall be accompanied by.—

(1) The fees prescribed therefor ;
(2) proof of service of notice on all parties who had appeared at the hearing of the petition ;
(3) two type-written copies of the order appealed against ;
(4) two additional copies of the memorandum ; and
(5) two copies of all other papers on which the appellant wants to rely.

12. The appeal shall, as soon as may after it is numbered, be posted before a Division Bench who may dispose of it at once or adjourn it for further hearing.

13. There shall be no printing of records in writ Appeals.

14. All other rules relating to appeals under the Letters Patent will apply to these appeals, in so far as they are not inconsistent with the foregoing rules.

15. (a) A party to whom costs have been awarded in a writ petition or a writ Appeal may obtain an order of the court for transmission for the purpose execution, of the order of costs to the court of the District Munsif or to the court of the Subordinate Judge in the State having jurisdiction, for execution where the party against whom the order is to be executed resides, or carries on business or has property which can be attached.

(b) An application for such transmission shall be made by a verified petition under the cause title of the writ Petition of writ Appeal, in which the order for costs was passed and shall, in addition to such particulars as may be necesary, mention the court to which the transmission is sought. It shall also be accompanied by a copy of the order sought to be transmitted.

(c) A court-fee fo *Rs. 2/-*shall be affixed to the application and the applicant shall also pay into court a transmission fee of annas twelve only.

(d) The Registrar shall dispose of an application for transmission. He may in his order provide also for the costs of the application and shall, if he so provides, direct the recovery thereof along with the sum recoverable under the order transmitted.

FORMS

FORM OF PETITION

In the High Court of Judicature of Andhra Pradesh Special Original Jurisdiction.

Writ Petition No. of 19

AB ... Petitioner

and

CD ... Respondent.

Petition under Article 226 of the Constitution of India.

The petitioner above named states as follows :

1. The petitioner is (give, description and address)
2. The address of the petitioner for service of all notices is

The Respondent is (give, description and address)

3. For the reasons set out in the affidavit filed herewith, the petitioner prays that (set out the reliefs sought).

(Signed) Petitioner.

(signed) Attorney/Advocate for petitioner.

(f)

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH,
AT HYDERABAD.

day, the day of one thousand nine hundred and

PRESENT

THE HONOURABLE MR. JUSTICE

AND

THE HONOURABLE MR. JUSTICE

Writ Petition No. of 19

In the matter of
a detenu in the Central Jail at

Petitioner

Petitioners under *section 491 of the Code of Criminal Procedure, 1898* Article 226 of the Constitution of India

Praying that in the circumstances stated therein and in the affidavit filed therewith, the High Court will be pleased to issue *direction in the nature of a Habeas Corpus* a Writ of for production before the High Court, Andhra Pradesh, at Hyderabad, the person of a detenu in the Central Jail at to be dealt with according to law and direct that he/they be set at liberty.

ORDER.

This petition coming on for orders/hearing, upon perusing the petition and the affidavit filed in support thereof and other papers material to this petition, and upon hearing the argument of Mr. , advocate for the petitioner, and of Mr. , for the Public Prosecutor on behalf of the State, IT IS ORDERED that now a detenu in the Central Jail at , under

(Specify Act), be released forthwith from custody, unless he is liable to be detained in custody for some other cause.

Deputy Registrar, Appellate Side

To

1. The Superintendent, Central Jail (induplicate)
2. Ths Chief Secretary to the Government of Andhra Pradesh Public (General Department Hyderabad (with covering letter)
3. The District Magistrate.

Dated

(h)

ORDER

WRITE PETITION NO. of 19

Directing the release from custody of

a detenu in the Central Jail at

Order directing issue of a Writ of Habeas Corpus

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD-Dn.

Writ Petition No. of 195

Date :

PRESENT

The Honourable Mr. Justice.

The.....

..... Petitioner

..... Respondent.

Petition under Article 226 of the Constitution of India praying that in the circumstances set out in the affidavit filed therewith, the Court may be pleased to issue a Writ of Habeas Corpus, etc.

The petition coming on this day for orders, upon reading the petition, etc., and upon hearing Mr. for the petitioner, and Mr. , for the Respondent, it is ordered that a Writ of Habeas Corpus do issue directed to the Superintendent, Central Jail at requiring him to produce the body of confined in the said jail, immediately before this Court to be dealt with according to law.

DEPUTY REGISTRAR.

WRIT OF HABEAS CORPUS

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH,
AT HYDERABAD.

Jail/Asylum

To

The Officer in charge of
The Superintendent of

You are hereby directed to produce the body of

Now a prisoner in (name Jail)
Now in custody in (Asylum)

now in your charge, under safe conduct before the High Court of Judicature, Andhra Pradesh, at Hyderabad on (date) at (hour) in the forenoon of the same day and unless the said shall then and there be ordered by the said Court to be released, cause him to be conveyed, back under safe custody to the Jail/Asylum/custody Witness the Honourable Mr. , Chief Justice of the High Court of Judicature, Andhra Pradesh, at Hyderabad this day of in the year one thousand nine hundred and

DEPUTY REGISTRAR.

(j) IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD,

WHEREAS this Court has granted a writ of Habeas Corpus directed to

(or other person) having the custody of commanding him to have the body of before the said court at the High Court of Andhra Pradesh at Hyderabad, immediately to undergo and receive all and singular such matters and things as the Court shall then there consider of concerning him in this behalf:

Now, take notice, that you are hereby required to have the body of the said before the said Court on the day of 19 , at the hour of in the fore (or afternoon). And to make a return to the said writ. Or in default thereof, the said Court will then, or so soon after as Counsel can be heard be moved for an attachment against you for your contempt in not obeying the said writ.

Dated the day of 19 .

Deputy Registrar.

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

day, the day of one thousand nine hundred and

Present.

THE HONOURABLE MR. JUSTICE

and

THE HONOURABLE MR. JUSTICE

Writ Petition No. of 19

1. Petitioner
2. Respondents.

Petition praying that in the circumstances, stated in the affidavit filed therewith, the High Court will be pleased to issue a writ of certiorari calling for the records in on the file of the and quash the order therein. This petition coming on for orders, upon perusing the petition, the affidavit filed in support thereof and upon hearing the arguments of Mr. Advocates for petitioner, it is ordered as follows.-

(1) that a writ of certiorari nisi returnable do issue to the calling for the records in on the file of

(2) that a rule nisi do issue to the Respondent herein directing him to appear before this Court in person or by Advocate on at 10-45 A.M. and to show cause why this application should not be complied with.

(1) Dated 195 Assistant Registrar.

ORDER

Writ Petition No. of 195
Directing issue of a Writ of certiorari calling for the records in on the file of and rule nisi to Respondent to show cause why this application should not be complied with.

WRIT OF CERTIORARI—ORDER NISI (to produce and or to appear)

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

day, the day of

One thousand nine hundred and

Writ Petition No, of 19

Between: Petitioner

and

Respondent

To Respondent.

WHEREAS upon motion this day made unto this Court by Mr. Advocate for the Petitioner and the Court being of opinion that the records in together with the decision therein should be called for and perused it is hereby comanded.

(1) That you do send forthwith for our use in the High Court of Judicature Andhra Pradesh at Hyderabad all and singular the said records and orders with all things touching the same as fully and perfectly as they have been made by you and now remain in your custody or power together with this our Writ on or before day of 19 , at 10-45 A.M.

(2) That you do appear before us personally or by Advocate on the day of 195 at 10-45 A.M. and show cause why this petition should not be complied with and that we may cause further to be done thereon what of right and according to law we shall see fit to be done.

Witness the Honourable the Chief Justice of the High Court of Judicature, Andhra Pradesh at Hyderabad, the day of in the year One thousand nine hundred and

Assistant Registrar,

.....

Return of the Writ of Certiorari, Order Nisi

(To be endorsed on writ to appear)

The process of the Writ of Certiorari whereof mention is within made, was served on Respondent, this One thousand nine hundred and

(Signed)

Writ and Rule Nisi

Writ Petition No. of 19

FORM NO. 8.

Return of the Writ of Certiorari : Order Nisi

(To be endorsed on Writ of produce)

The process of the Writ of Certiorari whereof mention is within made, with all things touching the same in the several papers hereto annexed as within commanded.

The answer of

the respondent herein

Dated the day of 19

(Signed)

WRIT OF CERTIORARI-ORDER ABSOLUTE

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH at HYDERABAD

Dn.

The day of 19

Writ Petition No. of 19

Between Petitioner

and

Respondent.

This petition coming on this day of 19 for further consideration in the presence of and upon perusing the records in and comprised in the return to the writ made by and upon hearing the arguments of for

(1)

(2) IT IS ORDERED AS FOLLOWS :—

Witness the Honourable Mr. Chief Justices of the High Court of Judicature, Andhra Pradesh, at Hyderabad this day of in the year One thousand Nine hundred and

Assistant Registrar.

WRIT OF PROHIBITION

Formal parts as in Form

Whereas by a petition filed in this Court by the aforesaid petitioner, it has been brought to the notice of this Court that you, the Respondent aforesaid, have taken on your file.....(here describe the proceeding), whereas, this Court is of opinion that you, the respondent aforesaid, have no jurisdiction to hear and determine the said————by reason that (state facts showing want of jurisdiction)

You are hereby prohibited from further proceeding with the said

Witness, etc.

ORDER ON PETITION FOR QUO WARRANTO

Petition praying that in the circumstances stated in the affidavit filed therewith the High Court will be pleased to issue a writ of Quo Warranto directed to

the Respondent above named, requiring him to show cause by what authority he claims to have, use, enjoy and perform the rights, duties privileges of the office of

The petition coming on for orders/hearing this day, upon reading the petition, etc., upon hearing Mr.

for the petitioner and the said Respondent appearing by Mr. and entering a disclaimer to the Quo Warranto, this Court doth order and direct that the said

the Respondent herein do not intermeddle in any manner with the said office and this Court doth further order and declare that the said office of is vacant.

WRIT OF MANDAMUS.

To

WHEREAS by section of Act (state, provision of law on which the act required to be done is founded) you are required to (specify the act to be done) and whereas it has been represented to the Court that contrary to the requirements of the Act, you failed, neglected and refused to (stata act refused) in spite of demands made in that behalf.

You are hereby directed to do (specify the act) on or before.

Witness etc.

Deputy Registrar.

F. RAJASTHAN, JODHPUR.

RAJASTHAN HIGH COURT RULES, 1952.

CHAPTER XXII.

Direction, order or writ under Article 226 of the Constitution other than a writ in the nature of HABEAS CORPUS.

375. (1) An application for a direction or order or writ under Article 226 of the Constitution other than a writ in the nature of habeas corpus shall be presented to the Registrar who shall direct that the application be laid before a Division Bench for orders.

Application and its contents.

Provided that an application relating to Judicial cases in Panchayats shall or ordinarily be laid provides before a Judge sitting alone.

(2) The application shall state clearly the relief sought and the grounds upon which it is sought and be accompanied by an affidavit verifying the facts relied upon.

(3) The application shall also state whether or not any similar application has been made to the Supreme Court.

376. If the Court does not find sufficient reason to admit the application, it may reject it. Where the application is not so rejected, notice thereof shall be served on all persons directly affected by it. Where the application relates to any proceeding in or before a Court and the object is either to compel the Court or an officer thereof to do any act in relation to such proceeding or to quash them or any order made therein, notice thereof shall also be served on such Court or officer as well as the other parties to such proceeding, and where any objection is taken with respect to the conduct of a Judge, also on the Judge.

Notice.

377. If at the hearing of the application the Court is of opinion that any person who ought to have been served with notice of the application has not been so served, the Court may order that notice may also be served on such person and adjourn the hearing upon such terms, if any, as the Court may consider proper.

Notice to person not already served.

Every notice under this or the next preceding Rule shall be accompanied by copies of the application and the affidavit, such copies being supplied by the applicant.

Conditions as to costs or giving of security before issue of notice.

378. The Court may, before issuing notice of the application, impose upon the applicant such terms as to costs or the giving of security as it may think fit.

Application to be heard at least eight clear days after service of notice

379. Unless the Court otherwise directs, the application shall be heard at least eight clear days after the service of notices issued under Rule 376.

Hearing person not served with notice.

380. At the hearing of the application, any person who desires to be heard in opposition to the application and appears to the Court to be a proper person to be heard, may be heard notwithstanding that has not been served with notice under Rule 376 or 377.

Application to be made by Advocate.

381. An application under this Chapter shall be made by an Advocate and not by the party personally.

No second application on the same facts.

382. Where an application has been rejected, it shall not be competent for the applicant to make a second application on the same facts.

Procedure.

383 All questions arising for determination under this Chapter shall be decided ordinarily upon affidavits, but the Court may direct that such questions as it may consider necessary be decided on such other evidence as it may deem fit and in that case it may follow such procedure as it may deem just.

Costs.

384. In disposing of an application under this Chapter the Court may make such orders as to costs as it may consider just.

Communication of orders.

385. Any orders passed by the Court shall be communicated for compliance to such person or persons. as may be necessary.

G. PATNA.

RULES FOR DISPOSAL OF APPLICATION UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA

1. An application for a direction or order or writ under Article 226 of the Constitution of India shall state the names, description and addresses of the applicant and the party against whom the relief is sought, the relief sought, and the grounds upon which it is sought and be supported by an affidavit. It shall also state whether an application on the same facts had been previously filed before this Court, and if so, with what result.

2. The application shall be made according to its nature, to a Division Bench hearing Civil or Criminal applications, as the case may be, except on any day on which no such Bench is available, when it may be made to a Single Judge nominated by the Chief Justice but he shall not pass any final order thereon.

If the direction or order or writ is sought against the Government or a public officer acting or purporting to act in discharge of his official duty, a copy of the application shall be served on the Advocate-General not latest than noon of the day preceding that on which the application is moved.

3. Applications under Article 226 of the Constitution shall be registered as Miscellaneous Judicial Case or Criminal Miscellaneous Cases, as the case may be.

4. Every application shall, soon after it is registered, be posted for orders before a Division Bench as to issue of notice to the respondents. The Court may either direct notice to issue and pass such interim order as it may deem necessary, or reject the application.

5. The notice of the application shall be served on all persons directly affected, and on such other persons as the Court may direct :—

Provided that on the hearing of any such application, any person who desires to be heard in opposition and appears to that Court to be a proper person to be heard shall be heard, notwithstanding that he has not been served with notice of the application and shall be liable to costs in the discretion of the Court if the order shall be made.

6. An answer to the rule *nisi* showing cause against such application shall, except with the leave of the Court, be made by filing an affidavit and by serving a copy thereof upon the applicant or his advocate, as the case may be, not later than the date fixed for showing cause.

Provided that an affidavit in reply filed beyond the period prescribed by this rule shall be placed for orders before the Bench at the time of the hearing of the application and the Bench may pass such order on the affidavit as it thinks fit.

7. All applications, affidavits, counter-affidavits and enclosures filed by either party shall be in duplicate and typed legibly in double space. Before the case is put up for hearing, the office shall prefix a table of contents with reference to pages of the papers on record.

8. Rule 23, in Part II, Chapter VIII of the Patna High Court Rules shall apply mutatis mutandis to applications unde Ariicle 226.

9. Unless the Court otherwise directs, the application shall be heard at least eight clear days after the service of notice of the application.

10. In case of difference opinion between the Judges composing the Division Bench, the point of difference shall be decided in accordance with the provisions of clause 28 of the Letters Patent.

11. The Court may in such proceedings impose such terms as to costs and as to the giving of security as it thinks fit.

12. These rules shall also apply mutatis mutandis to applications under Article 227 of the Constitution.

H. BOMBAY

(I) Rules framed by the High Court for issue of writs of habeas corpus under Article 226 of the Constitution of India read with Section 491 (2) of the Code of Criminal Procedure, V of 1898.

64. *Application under section 491, Criminal Procedure Code.* All applications by or on behalf of persons for orders under section 491 of the Code of Criminal Procedure shall be made to the Division Court taking the criminal business of the Appellate Side of the High Court, duly verified by oath or affidavit, setting forth the circumstances under which the order is sought.

65. *Rule nisi on prima facie case.*—If such Court is of opinion that a prima facie case for granting the application is made out, a rule nisi shall be issued calling upon the person or persons against whom the order is sought to appear on a day to be named therein to show cause why such order should not be made and at the same time, if the Court so directs to produce in Court the body of the person or persons alleged to be illegally or improperly detained then and there to be dealt with according to Law:

Provided that a Single Judge may grant a rule nisi if the conditions specified above are fulfilled but he shall not pass any final Order on the application.

66. *Order on hearing of rule.*—On the return/day of such rule or on any day to which the hearing thereof may be adjourned, if no cause is shown or if cause is shown and disallowed, the Court shall pass an order that the person or persons improperly detained shall be set at liberty or delivered to the person entitled to their custody. If cause is allowed, the rule shall be discharged.

67. *Service of writs.*—Where the place of detention is known, the High Court writ shall be served upon the jailor, with a copy to the detaining authority. Where the place of detention is not known the writ should be served upon the detaining authority. But an attempt should be made by the Office to find out where the place of detention is, and if the place is ascertained, then a copy of the writ shall be served upon the jailor.

As far as possible writs in Bombay should be served personally.

68. *Costs of rule in discretion of Court.*—In disposing of any such rule the Court may in its discretion make an order for the payment by one side or the other of the costs of the rule.

69. *Procedure as to evidence to be recorded.*—The Court may, if necessary, direct a Court of Session or a Magistrate to take evidence as provided in section 428 of the Criminal Procedure Code.

70. *Procedure in case of difference of opinion.*—In case of difference of opinion between the Judges composing the Division Court, the procedure laid down in Section 429 of the Code of Criminal Procedure shall be followed

(II) Rules for the issue of writs under Article 226 of the Constitution other than Habeas Corpus.

623. *Application for writs, etc., under Article 226 of the Constitution :*— Every application for the issue of a direction, order or writ under Article 226 of the Constitution other than an application for a writ of Habeas Corpus shall, if the matter in dispute is or has arisen substantially within Greater Bombay, be heard and disposed of by such one of the Judges on the Original Side or any specially constituted Bench as the Chief Justice may appoint. The application shall be by petition setting out therein the Rulief sought and the grounds on which it is sought. The petition shall be supported by an affidavit. In every such petition the petitioner shall state whether he has made any other application to the Supreme Court or the High Court in respect of the same matter and how that application has been disposed of. The petitioner shall move for a Rule Nisi in open Court.

If the Petitioner makes an application to the Supreme Court in respect of the same matter during the pendency of the petition in the High Court, he shall forthwith bring this fact to the notice of the High Court by filing an affidavit in the case and shall furnish a copy of such affidavit to the other side.

The Court may adjourn the hearing of the application made to it pending the decision of the Supreme Court in the matter.

624. *Rule nisi.*—The Court may either summarily dismiss the petition or order a rule nisi to be issued against the respondent, as it thinks fit. Any rule so granted shall be made returnable on such day as the Court may direct, but it shall not be made returnable within less than eight days after service thereof on the respondent.

625. *Interim order.*—If the Court grants a rule, it may make such interim interlocutory order in the case, either unconditionally or upon such terms and conditions as the Court thinks just, as the nature and circumstances of the case may require.

626. *Service of rule nisi.*—The Rule nisi granted as above shall, along with a copy of the order, if any, made under the last preceding rule, be served on the respondent in the manner prescribed for service of a writ of summons upon a defendant in a suit.

627. *Answer to rule nisi.*—An answer to the rule nisi showing cause against such application shall be made by filing an affidavit in the office of the Pro-

thonotary and Senior Master and by serving a copy thereof upon the applicant or his Attorney at least two days before the returnable date of the rule.

628. *Service of rule on other parties.*—The Court may in its discretion, at any time before final order is made on the application, order the rule nisi to be served on any party to be affected by any order which the Court may make in the matter. The provisions contained in the last two preceding rules relating to service of the rule and filing of an affidavit in reply shall apply to such a case.

629. *No further affidavits allowed.*—No further affidavits shall be filed by any party except with the leave of the Court.

630. *Adjournment for examination of witnesses.*—If cause be shown or answer made upon affidavit putting in issue any material question of fact, the Court may allow oral testimony of witnesses to be taken and for that purpose may adjourn the hearing of the rule to some other date. In such a case either party may obtain summonses to witnesses, and the procedure in all other respects shall be similar to that followed in a suit.

631. *Execution of, and appeal form orders.*—Every order made under this Chapter shall be executed, and may be appealed from, as if it were a decree made in the exercise of the Ordinary Original Civil Jurisdiction of this Court.

632. *Costs.*—The costs of all applications and orders made under this Chapter shall be in the discretion of the Court.

I. ASSAM, GAUHATI.

(I) Rules governing applications for Directions Orders or Writs (other than Writs in the nature of Habeas Corpus) under Article 226 of the Constitution of India.

1. An application for a direction or order or writ under Article 226 of the Constiution of India, other than writ of habeas corpus, shall be drawn up in the form contained in the schedule to this Chapter and shall be accompanied by an affidavit verifying the facts relied upon.

Separate application should be filed for each individual where interests are not identical even if there is one common order covering several cases and the facts of each should be separately supported by affidavit.

In all other respects the procedure relating to the revision applications shall apply to such applications.

2. Every such application shall be made before the Division Bench taking criminal business other than undefended criminal cases, except on any day on which no such Bench is sitting when it may be made to the Chief Justice or in his absence the senior most Judge unless the Chief Justice has nominated any other Judge for the purpose ;

Provided that during the vacation such an application may be made before the Vacation Judge.

3. Unless the Court sees no sufficient cause to admit the application and rejects it, notice of the application shall be served on all persons directly affected by the application and, where the application relates to any proceedings in or before a Court and the object is either to compel the Court or an officer thereof to do any act in relation to such proceedings or to quash them or any order made therein, notice shall also be served on such Court or officer as well as other parties to the proceedings and where any objection is taken with respect to the conduct of the Judge, also on the Judge.

4. If at the hearing of the application the Court is of opinion that any person who ought to have ben served with notice of the application has not been so

served, the Court may order that notice may also be served, on such person and adjourn the hearing upon such terms, if any, as the Court may direct.

Every notice under this or the next preceding Rule shall be accompanied by copies of the application and the affidavit.

5. The Court may, before issuing notice of the application, impose upon the applicant such terms as to costs or the giving of security as it may think fit.

6. At the hearing of the application, any porson who desires to be heard in opposition to the application and appears to the Court to be a proper person to be heard, may be heard notwithstanding that he has not been served with notice under Rule 3 or Rule 4.

7. No order, direction or writ under those Rules shall be issued if adequate relief is obtainable by the applicant by any other process of law.

8. An application under these Rules shall be made by an Advocate or by the party personally.

9. Where an application has been rejected, it shall not be competent for the applicant to make a second application on the same facts.

10. All questions arising for determination under these rules shall be decided ordinarily upon affidavits, but the Court may direct that such questions as it may consider necessary be decided on such other evidence as it may deem fit. Where the Court orders that certain matter in controversy between the parties shall be decided on such evidence, the procedure prescribed in the Code of Civil Procedure, 1908, for the trial of suits shall, so far as applicable, followed.

11. In disposing of an application under these Rules, the Court may make such orders as to costs as it may consider just.

Rules governing realisation of costs awarded in writ petitions, other than the writs in the nature of Habeas Corpus.

12. Any party to a proceeding under Article 226 of the Constitution of India desiring to obtain execution of the order relating to costs awarded in such proceedings shall apply to the Court by a stamped petition.

13. The Court, thereupon, shall direct the party against whom the costs are awarded to deposit the amount in Court within such time as it deems fit, and upon his failure to deposit the amount within the prescribed period, the Court shall order issue of a certificate for the recovery of costs and may also include the costs of the proceedings before it.

14. The certificate shall be issued under the signature of the Deputy Registrar and the seal of the Court and shall be executable as a decree of the Civil Court.

15. The certificate shall be executable by the District Judge of the Divisions in which the party from whom the costs are to be recovered actually resides or carries on business or works for gain or has some property.

16. The Court to which the certificate is issued shall execute it as a decree received on transfer for execution from another Court.

17. The form of the certificate shall be as prescribed in these Rules (form of certificate attached).

18. In the absence of any special direction in the judgment, such costs shall be deposited in, and withdrawn from, the Accounts Department of this Court in the same manner as in the case of Paper Book costs.

Certificate of non-Satisfaction of costs Rule 17, Chapter VA

Miscellaneous petitition No. of 19

Whereas the petitioner/respondent in the above case has applied to this Court for recovery of costs amounting to Rs. from respondent/petitioner and the latter has failed to deposit the amount of Rs. payable to the petitioner/respondent.

And whereas a Bench of this Court consisting of the Hon'ble Mr. Justice and the Hon'ble Mr. Justice has ordered issue of a certificate.

It is hereby certified that the petitioner/respondent is entitled to recover the amount of Rs. from respondent/petitioner.

Given under my hand and the seal of the High Court of Judicature in Assam this day the 19 .

By order of the High Court,

Seal Deputy Registrar.

Forwarded to the District Judge at————for necessary action.

Deputy Registrar.

SCHEDULE

(See Rule I)

IN THE HIGH COURT OF JUDICATURE IN ASSAM, REVISIONAL JURISDICTION

To— (The full name of the Chief Justice and his companion Judges.

*Here should be stated definitely the nature of the remedy sought, i.e. whether a direction, an order, or a writ and if a writ whether mandamus, prohibition, quo warranto or certiorari.

In the matter of an application for*———

**Here should be inserted as briefly as possible the particular right or rights whose infringement is alleged.

For the enforcement of the right of**———

***To be omitted if the application is for purpose other than the infringement of a right conferred by Part III.

***Conferred by Part III the Constitution of India.

****Names and particulars of parties.

****And in the matter of————

Then should follow a statement, divided into paragraphs, setting out the facts chronologically which have given rise to the cause of action and then the prayer showing the nature of the order sought and against whom it is sought.

(II) RULES UNDER CHAPTER XI.

30. All applications for orders, under clauses (a), (b), (c), (e) and (f) of Section 491 of the Code of Criminal Procedure shall be made by an Advocate of the Court before the Division Bench taking the Criminal cases of the High Court :

Provided that during vacations such applications may be made before and disposed of by the Vacation Judge.

30A. An application, if received by post, shall be put up as soon as possible after the receipt thereof before the Division Bench, or, as the case may be, before the Vacation Judge.

Provided that an application from persons detained in Jails shall not be entertained unless received through the Superintendent of the Jails in which they are detained.

31. Applications for orders under clauses (a), (b), (c), (e) and (f) of Section 491 of the Criminal Procedure Code shall be made on petition duly verified by affidavit setting forth the circumstances under which the order is sought.

32. Where the application is for order under clause (c) of Section 491 of the Criminal Procedure Code it shall be stated where prisoner is detained and for what purpose his evidence is required.

33. Where an order under clause (d) of Sectien 491 of the Criminal Procedure Code is required the Court martial or the Commissioners may send an application to this Court in writing and in such case an affidavit shall not be required. The application shall be in the form of a letter addressed to the Registrar, stating the purpose for which the said Court martial has been assembled or the authority under which the said Commissioners are acting, and also stating where the prisoner is detained in custody and when, where, and for what purpose he is required to be produced. It shall be the duty of the Registrar to submit the letter, as soon as possible after the receipt thereof and to obtain the order thereon of the Judges presiding over the Division Bench of this Court taking Criminal cases.

34. Where the application is for an order under clause (e) of Section 491 of the Criminal Procedure Code, notice of the application shall be served on the prisoner and it shall be stated in the affidavit where the prisoner is detained in custody, to what other custody it is proposed to remove him and the reason for such change of custody.

35. When the application is for an order under clause (f) of Section 491 of the Criminal Procedure Code, the return of cepi corpus to the warrant of arrest shall be produced. The officer having the custody of the return shall cause the same to be produced before the Court on a requisition to him in writing.

36. In any case in which the Court shall order a person in custody to be brought either before it or before a Court martial, or before Commissioners or to be removed from one custody to another a warrant shall be prepared and signed by the Registrar, Appellate Jurisdiction, and sealed with the seal of the Court.

37. Such warrant where issued under rule 33, shall be forwarded by the Registrar to the Officer-in-Charge of the Jail in which the prisoner is confined ; in every other case the warrant shall be served personally upon the person to whom it is directed or otherwise as the Court shall direct.

38. Where the application is to bring up before the Court a person in custody under a warrant to detain such person, a copy of the warrant under which he is detained, obtained from and authenticated by the signature of the person in whose custody the applicant is, shall be produced to the Court, or it shall be shown by affidavit that it has been asked for and denied.

39. Where the Court is of opinion that a prima facie case for granting the application is made, a rule nisi may be issued calling upon the person or persons against whom the order is sought to appear on a day to be named therein to show cause why such order should not be made and may at the same time direct such person or persons to produce in Court the body of the person or persons alleged to be illegally or improperly detained then and there to be dealt with accordingly to law.

39A. In Habeas Corpus matters the Government Advocate shall be notified even when such matters are placed before the Court for preliminary hearing.

40. On the return day of such rule or on any day to which the hearing thereof may be adjourned, where no cause is shown or where cause is shown and disallowed, the Court shall pass an order that the person or persons improperly detained shall be set at liberty or delivered to the person entitled to him or their custody. Where cause is allowed the rule shall be discharged.

41. In disposing of any such rule the Court may in its discretion make an order for the payment by one side or the order of the costs of the rule.

42. The forms of warrants Nos. 21 to 25 (criminal), pages 224-228 of Appendix II, shall be followed.

Form No: 21 (Criminal)
Rule 42, Chapter XI

FORM OF WARRANT.

IN THE HIGH COURT OF JUDICATURE IN ASSAM AT GAUHATI.
(Criminal Appellate Jurisdiction).

To

The Officer-in-Charge of

or

To

You are hereby required to have the body of now a prisoner in your coustody (or now in your custody) before the High Court, on its Appellate Side. on the day of next, by of the clock in the forenoon of the same day to be dealt with according to law and you shall then and there abide by such order as shall in that behalf be made by the said Court (if the prisoner is detained in public custody add) and unless the said .....shall then and there, by the said Court, be ordered to be released, you shall, after the said Court shall have dispensed with his further attendance, cause him to be conveyed under safe and sure conduct, back to the said..... .....

Dated this day of 19

Registrar.

Form No. 22 (Criminal)
Rule 42, Chapter XI

FORM OF WARRANT

IN THE HIGH COURT OF JUDICATURE IN ASSAM AT GAUHATI
(Criminal Appellate Jurisdiction).

To

The Officer-in-Charge of the (name of jail) or of the (name of asylum), or to (name of officer) in charge of B. C. and alleged lunatic.

You are here by required to have the body of B. C., now a prisoner in the (name of Jail) or now in custody at the now in your charge, under safe and sure conduct before the High Court, on its Appellate Side, on the day of next, by of the clock in the forenoon of the same day there to be dealt with according to law, and unless the said B. C. shall then and there by the said Court be ordered to be discharged, cause him, after the said Court shall have dispensed with his further attendance, to be conveyed under safe and sure conduct, back to the said jail (or asylum or other custody).

Dated this day of 19

Deputy Registror.

FORM OF WARRANT.

IN THE HIGH COURT OF JUDICATURE IN ASSAM AT GAUHATI

(Criminal Appellate Jurisdiction)

To

The Officer-in-Charge of

You are hereby required to have the body of , now a prisoner in the , under safe and sure conduct before the High Court, on its Appellate Jurisdisdiction, on the day of next, by of the clock in the forenoon of the same day, there to give testimony in a certain charge or prosecution now pending before the said Court against and after the said shall then and there have given his testimony before said Court, or the said Court shall have dispensed with his further attendance, cause him to be conveyed, under safe and sure conduct, back to the said

Dated this day of 19

Registrar.

FORM OF WARRANT.

IN THE HIGH COURT OF JUDICATURE IN ASSAM AT GAUHATI.

(Appellate Criminal Jurisdiction)

To

The Officer-in-Charge of the

You are hereby required to have the body of , now a prisoner in the under safe and sure conduct, before the officers assemble at a Court martial (or before the Commissioners) at on the day of next by of the clock, in the forenoon of the same day, for the trial of the said (or there to give testimony in certain trial now pending before the said Court-martial or the said Commissinners against , or as the case may be), and after the trial of the said or after the said shall then and there have given his testimony before the said Court-martial (or the said Commissioners) or the said Court-martial (or the said Commissioners) shall have dispensed with his further attendance, cause him to be conveyed, under safe and sure conduct, back to the said

Dated this day of 19

Registrar.

FORM OF WARRANT.

IN THE HIGH COURT OF JUDICATURE IN ASSAM AT GAUHATI.

(Criminal Appellate Jurisdiction)

To

The Officer-in-Charge of

Your are herby required to cause the body of , now a prisoner in the to be conveyed, under safe and sure conduct, to the jail at and on or before the day of , made over to the Officer in charge of such jail, to be by him there kept in intermediate custody for the purpose of trial before, the High Court in the exercise of Appellate Criminal Jurisdiction at its next sittings to be held at

Dated this day of 19 .

Registrar.

J. MADRAS.

RULES TO REGULATE PROCEEDINGS UNDER ARTICIE 226 OF THE CONSTITUTION.

1. An application for a direction, order or writ including a Writ of Habeas Corpus, Mandamus, Certiorari, Quo Warranto or Prohibition shall be by original petition to be entitled "Writ Petition No. of " and shall be filed in the office of the Registrar by the petitioner or his duly authorized advocate or attorney.

2. Every such petition shall set out the provision of law under which it is made, the name and description of the petitioner and of the respondent, the nature of the relief sought and the grounds thereof. The petition shall be signed by the petitioner or his advocate or attorney and the facts relied on by the petitioner shall be verified by an affidavit, which shall be filed along with the petition.

3. Every petition shall, soon after it is numbered, be posted for orders of Court as to issue of notice to the respondents. The Court may, upon hearing the petitioner or his advocate, either direct notice to issue and pass such interim order as it may deem necessary, or reject the petition.

4. Petitions for a direction, order or writ in the nature of habeas Corpus shall be posted before a Bench of two Judges. All other petitions shall be posted before a single Judge who may, if he thiks fit, refer any of them to a Bench of two Judges.

Provided that the Judge may direct any petition posted before him to be posted before a Bench of Judges.

5. Subject to the directions of the Court, notice of every petition shall be served on all parties directly affected, and, for this purpose, the petitioner shall bring in as many authenticated copies of the petition and affidavit as there are parties to be served and the prescribed process fee.

6. At the hearing of the petition, any person who desires to be heard in opposition to the petition and appears to the Court to be a proper person to be heard, shall be heard, notwithstanding that he has not been served with notice, and subject to such conditions as to costs as the Court may deem fit to impose.

7. (1) In all proceedings to which these rules apply, the Court may make such order as co cost and security as it may consider just and necessary.

(2) Where costs are awarded to a party, such costs may include the court-fees paid on the petition and other documents under these, rules, the costs of making copies of petition, affidavit, etc., which are furnished to the Court and which by these rules are required to be served on the opposite party or parties and the advocate's fee allowed by Court. The Court hearing the petition shall fix the advocate's fee which shall be subject to a minimum of Rs. 50 and a maximum of Rs. 250.

8. (1) Every petition for a direction, order or writ shall be chargeable with a Court-fee of Rs. 20, other than a petition for a direction, order, or writ in the nature of a habeas corpus which shall be charged with a court-fee of Rs. 2.

(2) Every Memorandum of Appeal filed under clause 15 of the Letters Patent form the Judgment of one Judge on a Petition for a direction order or Writ to which these rules apply, shall be chargeable with the same Court fee as is charged under sub-rule (1) supra on the petition form which the Appeal arises.

(3) All other documents shall be chargeable with the same court-fee as would be charged thereon if they were presented or filed on the Appellate Side of the High Court :

Provided, however, no petition Memorandum of Appeal or document presented or filed by a person in duress or under restraint shall be chargeable with any court-fee.

9. The forms set out in the Appendix hereto shall be used, with suitable modifications wherever necessary.

K. KERALA

1. An application for a direction, order or writ, including a writ of Habeas Corpus, Mandamus, Certiorari, Quo Warranto or Prohibition shall be by original petition to be entitled "Original Petition No. of..." and shall be filed in the office of the Registrar by the petitioner or his duly authorised advocate.

2. Three authenticated copies of the application and the affidavit for the use of the Court, and as many additional copies as there are respondents shall be filed along with the application.

3. (1) Every petition for a direction, order or Writ, except the petition for a writ of Habeas Corpus, shall be charged with the court fees if any, prescribed. The petition for a Writ of Habeas Corpus shall be charged with a court fee of Rs. 2 only.

(2) All other documents shall be chargeable with the same court fees as would be charged thereon, if they were presented or filed on the Appellate Side of the High Court ;

Provided however, no petition or document presented or filed by a person in duress or under restraint shall be chargeable with any Court fee.

MANDAMUS, PROHIBITION, CERTIORARI, QUO WARRANTO &C.

4. An application for a direction or order of the nature of Mandamus, Prohibition, Certiorai, or Quo Warranto, shall set out the provision of law under which it is made, the name and description of the petitioner and of the respondent, the nature of the relief sought, and the grounds hereof. It shall be signed by the petitioner and by his advocate, if he has appointed one. It shall also be accompanied bp an affidavit verifying the facts relied on.

5. Every petition shall, soon after it is numbered, be posted for orders of Court for admission. The Court may, upon hearing the petitioner or his advocate, either admit the same or reject it. On admission, notice shall be ordered to the respondents and along with the notice, copies of the application and affidavit shall be served on the respondents.

6. Application of this nature shall be heard by a Single Judge who, if he thinks it necessary or desirable, may refer the same to a Bench for decision.

7. In admitting the application it shall be competent for the Court to pass interim orders on motion made for the same, so as to meet the ends of Justice.

8. Except in the case of a petition for a writ Habeas Corpus, the petitioner will pay the necessary process fees for service of notices and orders on the opposite parties concerned.

9. The notice shall be served on all persons directly affected, and also on such other persons as the Court may direct.

Provided that at the time of hearing the petition for admission, or at a later stage, any person, who desires to be heard in opposition to the petition and appears to the Court to be a proper person to be heard, notwithstanding that he has not been served with notice ; but subject to such conditions as to costs as the Court may deem fit to impose.

10. Proof of facts and documents shall be tendered by affidavits and the provisions of Orders XIX of the Code of Civil Procedure, Act V of 1908 shall, except as regards cross-examination of doponents, be followed.

11. (1) No ground shall, except as here-in-after in this rule provided for, be relied upon or any relief sought at the hearing, except the grounds taken and reliefs set out in the Original Petition and the accompanying affidavit.

(2) The Court may, at the hearing, allow the said petition and affidavit to be amended upon such terms as to costs or otherwise as the Court thinks just.

12. (1) In all proceedings to which these rules apply, the Court may make such order as to costs and security as it may consider just and necessary.

(2) Where costs are awarded to a party, such costs may include the Court fee paid on the petition and other documents under these rules, the costs of making copies of petition, affidavit &c. which are furnished to the Court and which, by these rules, are required to be served on the opposite party or parties, and the advocate's fees allowed by the Court. The advocate's fees, when allowed, shall not be less than Rs. 50 and more than Rs. 250.

APPEAL.

13. In regard to the appeal provided for in the High Court Act V of 1125 as amended by Act 1 of 1952 against the decision of a Single Judge, the procedure prescribed for appeal in Order XLI of the Code of Civil procedure, Act V of 1908, will be followed.

14. The Court fees to be paid on the memorandum of appeal will be the same as that prescribed for the Original Petition.

HABEAS CORPUS.

15. An application for Writ of Habeas Corpus shall be accompanied by an affidavit of the person restrained, standing that it is made at his instance and setting out the nature and circumstances of the restraint.

Provided that where the person restrained is unable, owing to the restraint, to make the affidavit, the application shall be accompanied by an affidavit, to the like effect made by some other person, which will state the reason why the person restrained is unable to make the affidavit himself.

Provided also that if the affidavit is by some person, other than the person restrained, the same should show the interest the deponent has in the restrained person and the reasons that induced him to file the affidavit:

16. The appplication shall ordinary be heard by a Division Bench. except during vacation, when it may be heard by a Single Judge.

17. If the Court is of opinion that a *prima facie* case for granting the application is made out, a rule *nisi* shall be issued calling upon the persons against whom the order is sought, to appear on a day to be named therein, to show cause why such order should not be made and at the same time to produce in Court the person or persons alleged to be illegally or improperly detained, to to be dealt with according to law. Copies of the application and the affidavit shall be served on each of the respondents alon with the notice.

18. On the return day of such rule or on any day to which the hearing thereof may be adjourned if no cause is shown, or if cause is shown and disallowed the Court shall pass an order that the person or persons improperly detained shall be set at liberty. If cause is allowed the rule shall be discharged. The order for release made by the Court, or the Judge, shall be a sufficient warrant for any gaoler, public official, or other person for the release of the person under restraint.

19. The forms given in the appendix heseto shall be used, with appropriate modifications, wherever necessary.

APPENDIX

FROM No. I

FROM OF PETITION

In the High Court of Judicature, Travancore-Cochin

(Special Original Jurisdiction).

Original Petition No. of 19

AB Petitioner.

and

CD Respondent.

Petition under Article 226 of the Constitution of India.

The petitioner above named states as follows :

1. The petitioner is (give description and address.)
2. The address of the petitioner for service of all notices is
   The respondent is (give description and address).
3. For the reasons set out in the affidavit filed herewith, the petitioner prays that (set out the reliefs sought).

(Signed)

Petitioner.

(Sd.) Advocate for Petitioner.

Dated

FROM No. 2

ORDER ISSUING WRIT OF *Certiorari nisi*,

In the High Court of Judicature, Travancore-Cochin

day, the day of

One thousand nine hundred and

PRESENT

The Honourable Shri Justice

Original Petition No. of 195

Between

Petitioner.

and

Respondent.

Petition praying that in the circumstances stated in the affidavit filed therewith, the High Court will be pleased to issue a Writ of Certiorari calling for the records in on the file of the and quash the order therein.

This petition coming on for orders, upon perusing the petition, the affidavit filed in support thereof and upon hearing the arguments of Shri Advocate for petitioner, IT IS ORDERED as follows :

1. that a writ of certiorari *nisi* returnable on do issue to the calling for the records in on the file of

2. that a rule *nisi* do issue to the respondent herein directing him to appear before this Court in person or by advocate on at 11 A. M. and to show casue why this application should not be complied with.

Dated 195 Registrar.

FORM NO. 3.

WRIT OF CERTORARI—ORDER *nisi*

(To produce and/or to appear)

In the High Court of Judicature, Travancore-Cochin.

(Special Original Jurisdiction)

day, the day of One thousand nine hundred and fifty

Original Petition No of 195 Petitioner.

Respondent.

To

Respondent.

Whereas upon motion made on day of 195 unto this court by Shri Advocate for rhe petitioner for issuing a writ of certiorari calling for the records and the court being of opinion that the records in together with the decision therein should be called for and perused ; and for quashing the orders made therein, this court directed the issue of Writ and Rule *Nisi* returnable and whereas the Writ and Rule *Nisi* issued in pursuance of the above order have (not) been returned unserved/served and whereas this Court hath this day directed the issue of a fresh Writ and Rule *Nisi*.

It is hereby commanded

(1) That you do send forthwith for our use in the High Court of Travancore-Cochin all and singular the aid records and orders with all things touching the same as fully and perfectly as they have been made by you and now remain in your custody or power together with this our writ on or before the day 195 at 11 A. M. and/or

(2) That you do/appear before us personally (or by advocate) on day of 195 at 11 A. M. and show cause why this petition should not be complied with, and that we may cause further to be done thereon what of right and according to law we shall see fit to be done.

WITNESS the Honourable Shri Chief Justice of the High Court of Judicature, Travancore-Cochin, this day of in the year one thousand nine hundred and fifty Registrar.

(Seal)

FORM NO. 4.

RETURN OF THE WRIT OF CERTIORARI ORDER *nisi*.

(To be endorsed on Writ to appear)

The process of the Writ of Certiorari whereof mention is within made, was served on Respondent, this day of One thousand nine hundred and fifty One thousand (Signed)

FORM NO. 5.

RETURN OF THE WRIT OF CERTIORARI ORDER *nisi*.

(To be endorsed on Writ to produce).

The process of the Writ of Certiorari whereof mention is within made, with all things touching the same in the several papers hereto annexed as within commended.

The answer of the Respondent herein

Dated the day of 195 (Signed)

FORM NO 6

WRIT OF CERTIORARI—ORDER ABSOLUTE

In the High Court of Judicature, Travancore-Cochin

The day of 19

Original Petition No.

Between Petitioner

and Respondent

This petition coming on this day of 19

on further consideration in the presence of the Honourable Shri Justice

and the Honourable Shri Justice upon perusing the records in

and comprised in the return to the Writ made by the High Court and upon

hearing the arguments of Shri advocate for petitioner and Shri

advocate for the Respondent.

IT IS ORDERED AS FOLLOWS :—

(1)

(2)

WITNESS THE HONOURABLE SHRI CHIEF JUSTICE OF THE HIGH COURT OF JUDICATURE TRAVANCORE-COCHIN.

THIS DAY OF IN THE YEAR ONE THOUSAND NINE HUNDRED AND FIFTY

(Seal) Registrar.

FORM No. 7

WRIT OF PROHIBITION

In the High Court of Judicature Travancore-Cochin.

The day of 19

Original Petition No. of 19

President :

The Honourable Shri Justice

Between

Petitioner

and

Respondent

Whereas by a petition filed in this Court by the aforesaid petitioner, it has been brought to the notice of this Court that you, the Respondent aforesaid, have taken on your file,

(here describe the proceeding), whereas this Court is of opinion that you, the Respondent aforesaid have no jurisdiction to hear and determine the said by reason that (State facts showing want of jurisdiction).

You are hereby prohibited from further proceeding with the said

WITNESS THE HONOURABLE SHRI
CHIEF JUSTICE OF THE HIGH COURT OF JUDICATURE, TRAVANCORE-COCHIN.
THIS DAY OF IN THE YEAR ONE THOUSAND NINE HUNDRED AND FIFTY

(Seal) Registrar.

FORM NO. 8

ORDER ON PETITION FOR QUO WARRANTO

IN THE HIGH COURT OF JUDICATURE, TRAVANCORE-COCHIN

The day of 19

Original Petition No. of 19

Present :

The Honourable Shri Justice

Between Petitioner

and

Petition praying that in the circumstances staten in the affidavit filed therewith the High Court will be pleased to issue a write of Quo WARRANTO directed to the Respondent above named, requiring him to show cause by what authority he claims to have, use, enjoy and perform the aights, duties, privileges of the office of

The petition coming on for orders / hearing this day upon reading the petition, etc., upon hearing Shri for the petitioner and the said Respondent appearing by Shri and entering a disclaimer to the Quo Warranto, this Court doth order and direct ihat the said the Respondent therein do not intermeddle in any manner with the said Office and this Court doth further order and declare that the said Office of is vacant.

WITNESS THE HONOURABLE SHRI CHIEF JUSTICE OF THE HIGH COURT OF JUDICATURE TRAVANCORE-COCHIN THIS DAY OF IE THE YEAR ONE THOUSAND NINE HUNDRED AND FIFTY

(Seal) Registrar.

FORM NO. 9

WRIT OF MANDAMUS.

IN THE HIGH COURT OF JUDICATURE, TRAVANCORE-COCHIN.

The day of 19

Original Petition No. of 19

Present :—

The Honourable Shri Justice

between Petitioner

and

Respondent.

To

Whereas by section of Act (state provinsion of law on which the act required to be done is founded) you are required to (specify the act to be done) and whereas

it has been represented to the Court that, contrary to the requirements of the Act, you failed, neglected and refused to (state act refused) in spite of demands made in that behalf,

You are hereby directed to do (specifying the act) on or before

WITNESS THE HONOURABLE SHRI CHIEF JUSTICE OF THE HIGH COURT OF JUDICATURE TRAVANCORE-COCHIN, THIS DAY OF IN THE YEAR ONE THOUSAND NINE HUNDRED AND FIFTY

(Seal) Registrar.

FORM NO. 10

SUMMONS FOR WRIT OF HABEAS CORPUS.

IN THE HIGH COURT OF JUDICATURE, TRAVANCORE-COCHIN.

The Honourable Shri Justice upon hearing and upon reading the affidavit of filed herein:

Let all parties concerned attend the High Court of Travancore-Cochin, on the day of 19 , at O'clock in the fore (or afternoon), to show cause why a writ of Habeas Corpus should not issue directed to to have the body of before the Travancore-Cochin High Court, Ernakulam, immediately after the receipt of such Writ to undergo and receive all and singular such matters and things as the said Court shall then and there consider of concerning him in this behalf.

Dated this the day of 19

(Seal) Registrar.

FORM NO. 11.

NOTICE TO PRODUCE RESTRAINED PERSON IN COURT.

IN THE HIGH COURT OF JUDICATURE, TRAVANCORE-COCHIN.

(If in a cause already commenced, here insert the title, not otherwise).

To

Whereas this Court has granted a writ of Habeas Corpus directed to (or other person) having the custody of commanding him to have the body of before the said court at the High Court of Travencore-Cochin, immediately to undergo and receive all and singular such matters and things as the Court shall then and there consider of concerning him in this behalf:

Now, take Notice, that you are hereby required to have the body of the said before the said Court on the day of 19 at the hour of in the fore (or after) noon. And to make a return to the said writ. Or in default thereof, the said Court will then take appropriate action for an attachment against you for your contempt in not obeying the said writ.

WITNESS THE HONOURABLE SHRI CHIEF JUSTICE OF THE THE HIGH COURT OF JUDICATURE TRAVANCORE-COCHIN, AT ERNAKULAM THIS THE DAY OF IN THE YEAR ONE THOUSAND NINE HUNDRED AND FIFTY

(Seal) Registrar.

FORM NO. 12.

FINAL ORDERS ON THE WRIT OF HABEAS CORPUS, IF THE PETITION IS ALLOWED.

IN THE HIGH COURT OF JUDICATURE, TRAVANCORE-COCHIN.

The day of one thousand nine hundred and

Present :

The Honourable Shri Justice

and

The Honourable Shri Justice

Original Petition No. of 19

In the matter of the person in the custody of

Petitioner. Petition under Section 491 of the Code of Cr. Procedure Code 1898 / Article 226 of the Constitution of India praying that in the circumstances stated therein and in the affivavit filed therewith the HIGH Court will be pleased to issue directions in the nature of / a writ nf Habeas Corpus for production before the High Court, Ernakulam, the person in the custody of to be dealt with according to law and direct that he / they be set at liberty.

ORDER.

This petition coming on for orders/hearing, upon perusing the petition and the affidavit filed in support thereof and other papers material to this petition, and upon hearing the arguments of Shri , advocate for the petitioner, and of Shri , for the Public Prosecutor on behalf of the State IT IS ORDERED that new the person in the custody of be released forthwith from custody, unless he is liable to be deteined in custody for some other cause.

Registrar.

To

1. .....(The officer who has custody of the person directed to be released) in duplicate.
2. The Chief Secretary to the Government, Travancore-Cochin State.
3. The District Magistrate.

Eatec.....

FORM NO. 18.

RECOMMITTING A PERSON PRODUCED BEFORE COURT TO CUSTODY.

Writ of Habeas Corpus

IN THE HIGH COURT OF JUDICATURE, TRAVANCORE-COCHIN.

To

The..... having custody of..... you are hereby directed to produce the body of the said ..... now in your charge, undef safe conduct before the High Court of Judicature Travancore-Cochin at Ernakulam on .... (date) at.....(hour) in the fore noon of the same day and unless the said ....shall then and there be ordered by the said Court to be released cause him to be conveyed back under sefe custody to the Jail Asylum/custody.

Witness the Honourable Shri

Chief Justice of the High Court of Travancore-Cochin, this day of in the year one thousand nine hundred and

(Seal)

Registrar.

By order,

K. S. NARAYANA IYER
Registrar.

High Court of Judicature,
Travancore-Cochin,
Ernakulam, Dated 29-10-1952.

L. PUNJAB.

1. Every application for issue of any directions, orders or writs in the nature of mandamus, prohibition, quo warranto of certiorari, mentioned in Art. 226 of the Constitution of India, shall set forth all the facts and the grounds on which the relief is sought and shall be supported by affidavit.

2. Applications under Rule 1 may be heard and disposed of by a Single Bench.

3. The Court may either summarily dismiss the application or order a *rule nisi* to be issued against the opponent against whom it is sought, as it thinks fit. Any rule so granted shall be made returnable on such day as the Court may direct but it shall not be made returnable within less than fourteen days after service thereof on the opponent.

3-A. If the court grants a rule the applicant shall file two typed copies of the application with copies of enclosures, for the use of the Court. He shalls also file additional typed copy or copies, as the case may be, of the application for being supplied to the opponent.

4. If the Court grants rule, it may make such interim or interlocutory order in the case, either unconditionally or upon such terms and conditions as the Court thinks just as the nature and circumstances of the case may require.

5. The *rule nisi* granted as above shall, along with copy of the application and a copy of the order, if any, made under the last preceding rule, be served on the opponent in the manner prescribed in Order V of the Civil Procedure Code for the service of summons upon a defendant in a suit.

6. An answer to the *rule nisi* showing cause against such application shall be made by filing an affidavit in the office of the Registrar and by serving a copy thereof upon the applicant or his Advocate as the case may be at least two days before the returnable date of the rule.

7. The court may in its discretion, at any time before a final order is made on the application, order the *rule nisi* to be served on any party to be affected by any order which the Court may make in the matter. The provisions contained in the last two preceding rules relating to service of the rule and filling of an affidavit in reply shall apply to such a case.

8. No further affidavit or affidavits shall be filled by any party except with the leave of the Court.

9. If the cause be shown or answer made upon affidavit putting in issue any material question of fact, the Court may allow oral testimony of witnesses to be taken and for that purpose may adjourn the hearing of the rule to some other date. In such a case either party may obtain summons to witnesses, and the procedure in all other respect shall be similar to that followed in original cases in the High Court.

10. In case of difference of opinion between the Judges composing the Divisional Court, the point of difference shall be decided in accordance with the procedure referred to in clause 26 of the Letters Patent.

11. The costs of all applications and orders made under this Chapter shall be in the discretion of the Court.

M. WEST BENGAL, CALCUTTA.

The following Rules[1] framed by the High Court at Calcutta will come into force with effect from the 1st December, 1960.

1. Calcutta Gazette, dt, 10.11-60.

1. Except as otherwise provided, all applications made under Article 226(1) of the Constitution shall be governed by these rules.

2. Rule 8, second paragraph, Part I, Chapter II, Rule 15A, Part II, Chapter V and Rule 28A, Part II, Chapter XI of the Appellate Side Rules are hereby repealed.

3. All such applications shall be expressed to be made in the "Constitutional Writ Jurisidiction" of this Court except that applications for a Writ in the nature of Habeas Corpus shall be made in the "Extraordinary Original Criminal Jurisdiction" and shall be heard and disposed of at the Appellate Side and governed by Rules 29 to 42 of Chapter XI, Part II of the Appellate Side Rules.

4. All applications for Writs in the nature of Mandamus, Prohibition and Quo Warranto, in which all the respondents reside or carry on business or have their offices situate within the ordinary original civil jurisdiction, of this High Court, whether they relate to a person, or court, or authority, whether exercising civil, criminal or administrative jurisdiction, shall be dealt with by the Original Side and shall be marked as "Original Side" applications.

5. All applications for Writ in the nature of Certiorari, wherein the records are located or are available within the ordinary original civil jurisdiction of this High Court, whether they relate to an authority or court exercising civil or criminal or other jurisdiction shall be dealt with by the Original Side and shall likewise be marked as "Original Side" applications, where such authority or court and any other person, having custody of the records, have their offices situate within the aforesaid ordinary original civil jurisdiction of this High Court.

6. All other applications whether they relate to a person or authority or court exercising civil or criminal or other jurisdiction shall be dealt with by the Appellate Side of the High Court and marked as "Appellate Side" applications.

7. All such applications which are marked "Original Side" applications shall be numbered as "Matter No.....of.....(state year)" and all applications which are "Appellate Side" applications shall be numbered as "Civil Revision No .....of.....(state year)" or "Criminal Revision No. ....of.....(state year)" as the case may be.

8. All petitions and affidavits with suitable modification shall be intituled—

In the matter of Article 226 of the Constitution

and

In the matter of (state the authority or court concerned)

and

In the matter of (state the particulars of the order or decision or enactment complained of)

and

In the matter of :—(state the name and other particulars required, as in a plaint, of the petitioner or each of the petitioners)

Petitioner

Versus

(state the name and other particulars required, as in a plaint, of the respondent or each of the respondents)

Respondent

9. All petitions shall consist of paragraphs numbered consecutively and shall be fairly and legibly type-written on standard petition paper, demi-foolscap size or on paper ordinarily used in the High Court for transcribine petitions, with quarter margin.

10. All petitions shall contain a parrgraph containing the "grounds" upon which the petition is moved, each separate ground being serially numbered.

11. The prayer to the petition shall distinctly state the particular Writ or Writs which the petitioner requires to be issued and the particular direction or directions which are prayed for. Where leave is asked for making an application in a reprensentative capacity there must be a distinct prayer to that effect.

12. In an application for a Writ in the nature of Certiorari, there should be a statement as to the location of the records of the proceedings impugned.

13. Evepy petition must be signed and dated by the petitioner or his duly authorised agent.

14. Every petition shall be verified by the solemn affirmation made by the petitioner or a person or persons having cognizance of the facts stated and shall state clearly by reference to the paragraphs of the petition whether the statements are based on knowledge, information and belief, or on records Where a statement is based on information, the source of information should be disclosed and where the statements are based on records, sufficient particulars should be given to identify the records.

15. Where the petitioner is a company or a corporation, there should be appended an affidavit of competency ; where the petitioner or a respondent is a corporation, the provisions of Order XXIX of the C.P. Code in so far as they are applicable, shall apply

16. An application for a Writ in the nature of Habeas Corpus shall be accompained by an affidavit of the person restrained setting out the nature and circumstances of such restraint and that the application was being made at his instance, provided however, that where the person restrained is unable owing to the restraint to make the application, the application for such a Writ shall be accompained by an affidavit setting out the nature and circumstances of the restraint and the reasons why the person restrained is unable to file the application himself.

17. It will not be necessary to set out in the application or in the affidavit any document which is part of a record present in the High Court ; but the application shall state shortly all facts upon which it is intended to rely, and shall give the number, letter, title or other description of all documents on the record present in the High Court, to which it is intended to refer.

18. In the case of an application relating to a matter which is or has been before the High Court, the High Court file, together with the application, shall be placed before the Court or the Registrar at the time of the hearing of the application. When the applicant desires that any documents in a record present in the High Court shall be produced at the hearing in order that they may be referred to by the Court, he shall at the time of filing the application give notice to produce them, to the Bench Clerk concerned.

19. All petitions for a Writ in the nature of Mandamus shall contain a statement as to whether a demand for justice has been made and specify the particulars of such demand including the date, and service thereof. A copy of such demand, where the demand is in writing, shall be set out in the annexure to the petition.

20. All annexures to a petition shall be type-written (except where they are in the vernacular, when they may be typed or handwritten) and transcribed on the same kind of paper as is used for the body thereof. The annexures shall be separately paginated and marked with exhibit marks (e.g. 'A', 'B', 'C', 'D' etc., and shall bear the certificate of the Commissioner before whom the Affidavit is made.

21. Original documents, or certified copies may not be annexed as such, but transcribed copies thereof.

22. Where a document is not in the English language, the Court may direct that the party filing the same as an annexure should get it officially translated. The procedure for such translation and the fees to be paid therefor shall be as provided in the rules of the Original Side.

23. Where the respondent is the Central Government or the Government of West Bengal, the Cause-title shall mention the person upon whom the Writ is to be served, e.g.—

"The State of West Bengal, through....."

24. All applications under Article 226 of the Constitution shall, subject to any direction of the Chief Justice, be made before a Judge on the Original Side taking interlocutory applications or such other Judge as the Chief Justice may appoint.

25. Unless otherwise ordered by the Court all applications for a rule nisi shall be made ex-parte in the first instance, before the Court, on such day or days and at such time or times as is fixed by the Court.

26. The Court, hearing such application, may issue a rule nisi or summarily reject the adplication or make such order thereupon as it thinks fit. A rule nisi shall be drawn up as far as may be in the model form set out in Annexure I.

27. In applications marked "Original Side", minutes shall be maintained as in applications made in the Original Side of the High Court. In applications marked "Appellate Side" an Order Book shall be maintained as in Civil Revisions in the Appellate Side.

28. So far as appearance of Advocates and Attorneys are concerned, the rules applicable in the Original Side will apply to applications marked "Original Side" and the rules applicable in the Appellate Side will apply to applications marked "Appellate Side":

Provided that in the matter of applications marked "Original Side" as aforesaid but relating to Industrial Tribunals or the Corporation of Calcutta or Income Tax or Agricultural Income Tax Authorities or Tribunals, Advocates, not entitled to practise on the Original Side and Advocates, so entitled under Chapter 1, rule 2 (iii), (iv) and (vi) of the Original Side Rules, and Attorneys shall be entitled to appear and act.

29. "Upon admission of his petition, in respect of petitions marked "Appellate Side", the petitioner shall, within a week of the making of the order, file with his petition as many copies as there are respondents, together with an extra copy for each serving court, to be retained by such court for the purpose of drawing up of the return of service or non-service as the case may be. Where Government is a party respondent, an additional copy will be filed for service upon the Legal Remembrancer. "Where a Government official is made a party respondent in his official capacity, the Court shall cause to be prepared an additional copy of the rule and the relative writ petition, for service upon the Legal Remembrancer. This shall be in addition to the copy to be served on the party and not in substitution thereof". In applications marked "Appellate Side", where fresh service is to be effected, notice of that fact shall be given to the petitioner, who shall, within a week of the service of such notice, file the requisite number of copy or copies of the petition, for such fresh service. In case of default in filling such copies, the matter will be placed before the court which has admitted the petition, for further direction.

30. Except as otherwise specified in these rules,—

In respect of "Original Side" applications, the rules of the Original Side

relating to interlocutory applications, and in respect of "Appellate Side" applications, the rules of the Appellate Side relating to Civil Revisions shall apply mutatis mutandis, in respect of the following matters :—

(1) The drawing up of all interlocutory orders and the rule nisi.
(2) The service of all orders and the rule nisi upon the respondent or respondents. Provided however that in applications marked "Appellate Side", the cost of serving interlocutory orders by post upon the respondent or respondents shall be borne by the petitioner.
(3) The appointment of Next-friend for a petitioner or a guardian-ad-litem of the respondent, where the petitioner or the respondent, as the case may be, is a minor or a person under disability.
(4) The entering of appearance of the respondent or respondents, including the filing of Vakalatnamas and Powers of Attorney.
(5) The making of interlocutory applications.
(6) Affirmation of affidavits.
(7) Filing of petitions and affidavits.
(8) Payment of court-fees.
(9) Payment or process-fees.
(10) The drawing up of orders generally.
(11) Assessment or Taxation of costs.
(12) Any matter, not expressly covered by these rules.

31. Unless othrwise ordered a rule nisi in applications marked "Original Side" shall be returnable within three weeks from the date of the making of the order. A rule nisi in an application marked "Appellate Side" shall be likewise returnable within eight weeks from the date of the making of the order.

32. In applications marked "Original Side" when the return of service has been filed, and in application marked "Appellate Side" when the return of service (which shall include a return of non-service) upon the respondent or all the respondents has or have been received, and on the expiry of the returnable date, the "matter" or the "Civil Revision Case" as the case may be shall be put down in the daily hearing list of the appropriate Court, for directions. Where, however, in a matter marked "Appellate Side" the return of service is found defective, the matter shall first be placed before the Registrar, Appellate Side, taking lawazima matters.

33. The respondent or respondents shall file counter affidavit or other affidavit, and the petitioner shall file a reply thereto as directed by the Court or a Bench.

34. All affidavits shall be drawn up in paragraphs numbered consecutively and shall be typewritten and transcibed in the same manner as a petition, and shall be verified in the same manner as a petition. The annexures shall be in the same form as in a petition and paginated.

35. Unless otherwise ordered, all affidavits shall be filed before the proper officer of the Court, and in compliance with directions given by the Court. No affidavit shall be used unless filed at least 24 hours before the sitting of the Court on the date fixed for the bearing and no affidavit shall ordinarily be read at the hearing unless a copy thereof has been served upon the respondent or his advocate at least 24 hours prior fo such hearing.

36. Unless oiherwise ordered, a rule nisi in the case of a Writ of Certiorari shall contain a direction upon the inferior court, tribunal or authority concerned to transmit the record of the case or proceeding to the High Court. It would be a sufficient compliance with such order, if the advocate or attorney appearing for such a party, intimates in writing to the Registrar of this Court that he has received such records which are in his possession and will be produced at the time of the hearir g, and in matters concerning the revenue if the advocate or attorney

appearing for the revenue authorities similarly intimates that the records will be produced at the hearing.

37. Upon a final order being made, or a rule being made absolute, the petitioner, through his attorney or advocate, as the case may be, shall within a week thereof make a requisition in writing to the Registrar for drawing up of the said order or the rule, bearing a court-fee stamp of Rs. 10. The Registrar shall then proceed to draw up the order or rule, upon notice to the parties appearing or the advocates or attorneys appearing on their behalf

38. Writs shall be drawn up as far as may be, in accordance with the model forms set out in Appendix II.

39. In applications marked "Original Side", copies of all Writs and final orders shall be made over to the petitioner or his attorneys for service upon the respondent of the parties concerned and shall be served according to the rules for serving orders in the Original Side.

40. In applications marked "Appellate Side", copies of all Writs final orders shall be handed over to the petitioner or served through Court, upon payment of process fees.

41. In all Writs of Mandamus issued upon Companies incorporated under the Indian Companies Act, or any order or direction which calls upon the Company to do or abstain form doing anything, shall be served upon the Company, but the petitioner may furnish a list of directors residing within the jurisdiction of this Court and obtain a direction from Court that each such director shall be served with a copy of such order, direction or Writ, and thereupon such directors shall be served with such order, direction or Writ as if they were parties to the application.

42. Any such person served with an order, directien or Writ may appear and object to such service upon him.

43. Appeals form final orders in this jurisdiction shall be made in the same manner as appeals from original orders in the Original Side and appeals form orders in the Appellate Side according as they arise out of "Original Side" and "Appellate Side" applications and all rules applicable thereto in the rules of the Original and Appellate Side, respectively, shall apply thereto mutatis mutandis.

44. The Court may direct any party to an application to furnish security, either to the satisfaction of the Registrar or in any other manner. Such matters will be dealt with by the Registrar, Original Side, and the provisions of the rules of the Original Side in so far as they applicable, shall apply.

45. In matters marked "Appellate Side" deposit and withdrawal of costs shall, in the absence of special directions, be effected in the Accounts Department of the Appellate Side in the same manner as Paper Book costs.

46. In all applications which involve the revenue, and in which the Court has granted an interim stay of the assessment and/or realisation of taxes, the parties will be at liberty, after the pleadings have been completed, to mention the matter to court, and the matter upon being so mentioned shall be directed to be placed in the daily hearing list upon a day deemed to be convenient to the Court.

47. In all applications involving the revenuel where an assessment has already been made or upheld, no order shall be made staying the realisation thereof, unless the assessee making the application, gives security as may be deemed adequate by the court, for the due payment of the amount assessed to tax. The amount of security, the time within which it shall be furnisshed and the manner of furnishing it, shall be at the discretion of the court making the order. Where such security has been ordered ex-parte, any party to the application upon being served with the writ, may apply to the Court for enhancing or reducing the same.

APPENDIX I

Form of Rule Nisi

Matter No.
or C. R. No.
Original Side
or Appellate Side
Cause-title as in Petition

Upon reading a petition of and his affidavit of verification thereof, dated and the exhibits or annexures to the said petition, and upon hearing , advocate for the said petitioner.

It is ordered that a Rule do issue calling upon the respondents or opposite parties to show cause why a *Writ in the nature of Mandamus* should not be issued directing the said respondents or opposite parties to do (state the things that should be done) or forbear from doing (state the things that should be forborne) or why *Writ in the nature of Certiorari* should not be issued setting aside, cancelling, or quashing the following :—

[state the documents, orders or proceedidgs to be set aside, cancelled or quashed]

and they are further commanded at the hearing of the application to produce in Court or cause to be forwarded to the Registrar of this Court, for being so produced, all the said documents, orders or proceedings, and the following other documents, records or proceedings :—

[set out a list]

so that conscionable justice may be administered by setting aside, cancelling or quashing the same or making such other directions as to the Court seem fit and proper

or why a *Writ in the nature of Prohibition* should not issue commanding the respondents or opposite parties (or if only one or more of them, then state their numbers in the cause-title) not to proceed with [give particulars of proceedings] or exercise jurisdiction in any manner in respect thereof or why a *Writ in the nature of Quo Warranto* should not be issued upon the respondents or opposite parties (or if only upon one or more of them then state their numbers in the cause-title) derecting him or them to show to the satisfaction of this Court, as to the right and authority under which he or they are holding the office of [state particulars of office] or acting as [state particulars] and to show cause why he or they should not cease to hold the office and vacate the same forthwith and/or cease to exercise any power or authority in connection therewith and/or cease to act in the capacity mentioned above.

Interim order

And it is further ordered that pending the disposal of this application, the respondents or opposite parties are restrained from doing the following acts

[state particulars]

and/or that the following proceedings are stayed :—

[state particulars]

In witness whereof, etc.

Rule Nisi in case of a Writ of Habeas Corpus

To Greeting

Whereas you have in your custody in body of

We command you upon the receipt of this our Writ to produce the body of before the Court or Judge [give particulars] on the to undergo and receive all and singular such matter or things as our Court or Judge shall then and there consider of concerning him in this behalf.

And in default, take notice that you shall be answerable for contempt in not obeying the orders of this Court.

APPENDIX II

Form of Writs

FORM I

Writ in the nature of Mandamus

Upon reading on the part of (hereinafter referred to as the "Petitioner") his petition, affirmed by an affidavit of *And upon reading* an affidavit of and and being the returns made to the rule nisi issued herein, dated And upon hearing appearing on behalf of the petitioner, and appearing on behalf of the respondent

It is ordered that the said order nisi is hereby made absolute, and it is further ordered that a Writ in the nature of Mandamus is issued upon the respondent [here state which respondent or respondents] commanding the said respondent (or respondents) to do or forbear from doing the following acts, that is to say

And it is further ordered that

[State any other directions given or order made]

Witness, etc.

FORM II

Writ in the nature of Certiorari

Upon hearing on the part of , (hereinafter referred to as the "Petitioner") his petition, affirmed by an affidavit of And upon reading an Affidavit of and and being the returns made to the rule nisi issued herein, dated and upon hearing , appearing on behalf of the petitioner, and , appearing on behalf of the respondent

It is ordered that the said rule nisi is hereby made absolute ; and it is further ordered that a Writ in the nature of Certiorari is issued and that the following orders. and/or Judgments, and/or Proceedings are set aside/cancelled/quashed :—

(a) [Here state the particulars of the order, Judgment or proceedings to be quashed, including a clear description of the Court, tribunal or authority whose order, etc. is being affected.]

(b)

(c)

And it is further ordered that the said upon being served with this Writ do hear and decide the said cause in accordance with law.

Witness, etc.

FORM III

Writ in the nature of Prohibition

Upon hearing on the part of (hereinafter referred to as the "Petitioner") his petition, affirmed by an affidavit of And upon reading an affidavit of and and being the returns made to the rule nisi issued herein, dated and upon hearing , appearing on behalf of the petitioner, and , appearing on behalf of the respondent

It is ordered that the said rule nisi is hereby made absolute, and it is further ordered that a Writ in the nature of Prohibition is issued upon the respondent prohibition the said respondent from further hearing or determining, the following suit, matter, application, cause or proceeding pending before the said respondent.

(a) [State the particulars of the suit, matter, application, cause or proceeding affected.]

Witness, etc.

FORM IV

Writ in the nature of Quo Warranto

Upon reading on the part of (hereinafter referred to as the "Petitioner") his petition, affirmed by an affidavit of And upon reading an affidavit of and and being the returns made to the rule nisi issued herein, dated and upon hearing , appearing on behalf of the petitioner, and , appearing on behalf of the repondent

It is ordered that the said rule nisi is hereby made absolute, and it is further ordered that a Writ in the nature of Quo Warranto is issued upon the respondent quashing and/or setting aside the warrant of appointment, dated and commanding the said respondent not to act as, or purport to hold the office of [state particulars] or to exercise any jurisdiction in respect thereto.

Witness, etc.

FORM V

Writ in the nature of Habeas Corpus

Upon reading on the part of (hereinafter referred to as the "Petitioner") his petition affirmed by an affidavit of And upon reading an affidavit of and and upon hearing in person

It is ordered that this rule be made absolute and that whose body has been produced from custody by the be forthwith set at liberty, *or* that he be returned to custody *or* that the following orders or directions be given and obeyed

[state particulars]

Witness, etc.