

PART I

Chapter I.—Preamble

1	Preamble	1
---	-----------------	---

Chapter II.—Directive Principles of State Policy

2	Directive Principles of State Policy	2—4
3	Scope of the directive Principles	4

Chapter III.—Procedure for Preventing Legislation Repugnant to the Quraan and the Sunnah

4	No legislation to be in contravention of the Holy Quraan and the Sunnah.	4
5	Interpretation of the Holy Quraan and the Sunnah	4
6	Where objection as to repugnancy is to be taken	4
7	Who can take objection as to repugnancy	4
8	Limitation of objections as to repugnancy	4
9	Constitution of the Bench for considering objections as to repugnancy	4
10	Exclusion of Money Bills	4
11	Setting up of organisation for <i>Amr-bil-maruf</i> and <i>Nahl-anil-munkar</i> ...	5

PART II

The Federation and its Territories

12	Name and territories of the Federation	5
13	Alteration of boundaries and names of Units	5

PART III

The Federation

Chapter I.—The Executive

The Head of the State

14	The Head of the State	5—6
15	Election of the Head of the State	6
16	Definition of "Easter Zone" and "Western Zone"	6
17	Rules for the election of the Head of the State	6
18	Qualification for election as Head of the State	6
19	Term of office of the Head of the State	6
20	Eligibility for re-election	7
21	Casual vacancy in the office of the Head of the State	7
22	Oath by the Head of the State	7
23	Powers of the Head of the State in certain contingencies	7
24	Supreme Command of the Armed Forces	7

PARAGRAPH		PAGES
25	Appointment of Supreme Commander, Commanders-in-Chief and officers of the Armed Forces.	7
26	Discretionary powers of the Head of the State	7-8
27	Salary and allowances of the Head of the State	8
28	Removal of the Head of the State	8
29	Extent of the executive authority of Federal Government	8
30	Cabinet to aid and advise the Head of the State	8
31	Other provisions as to Ministers	9
32	Salaries and allowances of Ministers, etc.	9
33	Joint responsibility	9
34	Oath of Ministers	9
35	Protection in respect of choosing Ministers	9
36	Advocate-General for Pakistan	9
37	Conduct of business of the Federal Government	9
38	Duties of Prime Minister as respects furnishing of information to the Head of the State.	9
Chapter II.—The Federal Legislature		
39	Constitution of the Federal Legislature	10
40	Right of sending messages to the Federal Legislature	10
41	Composition of the House of Units	10-11
42	Re-allocation of seats in the House of Units	11
43	Qualifications for membership of the House of Units	11-12
44	Vacation of seats by members	12
45	Disqualifications for membership of the House of Units	12-13
46	Composition of the House of the People	13-14
47	Reservation of additional seats for women	14
48	Representation of Kashmir and Junagadh	14
49	Re-allocation of seats in the House of the People	15
50	Allocation of seats to communities	15
51	Qualifications for membership of the House of the People	15
52	Disqualification for membership of the House of People	15-16
53	Franchise	16-17
54	Disqualifications for franchise	17-18
55	Decision on questions as to disqualification of members	18
56	Penalty for sitting and voting by persons not qualified or when qualified.	18
57	Absence without leave	18

PARAGRAPH		PAGES
58	Term of the Federal Legislature	18
59	Time limit for holding general or bye-elections	18
60	Summoning of the Houses of the Federal Legislature	18
61	Summoning of joint session of the Houses of the Federal Legislature	18
62	Prorogation of the Federal Legislature	19
63	Dissolution of the Federal Legislature	19
64	Powers of the two Houses of Federal Legislature	19
65	Procedure in case of conflict between the two Houses of the Federal Legislature.	19
66	Procedure for motions of confidence and no-confidence	19
67	Right of Ministers and Advocate-General as respects the Federal Legislature.	19
68	The Chairman and the Deputy Chairman of the Federal Legislature	19-20
69	Salary and allowances of the Chairman and the Deputy Chairman ...	20
70	The Chairman and the Deputy Chairman not to preside when a resolution for his removal is under discussion.	20
71	The Secretariat of the Federal Legislature	21
72	The Finance Committee	21
73	Oath of members failure or refusal to take oath	21
74	Privileges of the Federal Legislature and of the Members and Committees thereof.	21
75	Salaries and allowances of members	21-22
76	Voting and quorum in the Houses of the Federal Legislature ...	22
77	Ordinances by the Head of the State	22
78	Joint Sitting of both the Houses	22
79	Assent to Bills	22
80	Annual Financial Statement	22-23
81	Procedure relating to Money Bills and Budget	23
82	Procedure relating to Estimates	23-24
83	Money Bills	24
84	Supplementary Statement of Expenditure	24
85	Authentication of the schedule of Expenditure	24
86	Rules of Procedure	24-25
87	Courts not to enquire into the proceedings of the Legislature ...	25

PART IV

The Units...

Chapter I.—The Executive

The Head of the Unit

PARAGRAPH		PAGES
88	Heads of the Units	25
89	Executive power of the Unit	25
90	Appointment of the Head of the Unit	25
91	Term of office of the Head of the Unit	25
92	Salary and allowances of the Head of the Unit	25
93	Oath of the Head of the Unit if he is a Muslim	26
94	Oath of the Head of the Unit if he is a non-Muslim	26
95	Cabinet to aid and advise the Head of a Unit	26
96	Other provisions as to Ministers	26
97	Salary and allowances of Ministers, etc.	26
98	Oath of Ministers if they are Muslims	26
99	Oath of Ministers if they are non-Muslims	26
100	Joint responsibility of Ministers to the Unit Legislature	26
101	Protection in respect of the act of choosing Ministers	27
102	Extent of the Executive authority of the Government of the Unit	27
103	Conduct of business of the Government of a Unit	27
104	Duties of Chief Ministers as respects the furnishing of information to the Head of the Unit.	27
105	The Advocate-General of a Unit	27
Chapter II.—The Legislature of a Unit		
106	Constitution of the Legislature of a Unit	27
107	Representation in the Unit Legislature	28
108	Right of sending messages to the Legislature of the Unit	28
109	Qualifications for membership of the Legislature of a Unit	28
110	Disqualifications for membership of the Legislature of a Unit	28-29
111	Decision on question as to the disqualification of the members	29
112	Penalty for sitting and voting by persons when not qualified or when disqualified.	29
113	Franchise	29-30
114	Disqualifications for franchise	30
115	Life of the Legislature of a Unit	31
116	Time limit for holding general or bye-election	31

PARAGRAPH		PAGES
117	Absence without leave	31
118	Summoning of the Legislature of a Unit	31
119	Propragation of the Legislature of a Unit	31
120	Dissolution of the Legislature of a Unit	31
121	Right of Ministers and the Advocate-General as respects the Legislature of a Unit.	31
122	The Chairman and Deputy Chairman of the Legislature of a Unit	31-32
123	Salary and allowances of the Chairman and the Deputy Chairman	32
124	The Chairman and the Deputy Chairman not to preside when a resolution for his removal is under discussion.	32
125	The Secretariat of the Legislature of a Unit	33
126	The Finance Committee	33
127	Oath of Members : failure or refusal to take oath	33
128	Voting and quorum in the Legislature of a Unit	33-34
129	Privileges of the Legislature of a Unit and of the Members and Committees thereof.	34
130	Salaries and allowances of Members	34
131	Assent to Bills	34
132	Annual Financial Statement	34-35
133	Procedure relating to estimates	35
134	Authentication of the Schedule of Expenditure	35
135	Money Bills	35-36
136	Supplementary Statement of Expenditure	36
137	Rules of Procedure	36
138	Courts not to enquire into the proceedings of the Legislature	36
139	Ordinances by the Head of the Unit	36
PART V		
Excluded and Partially Excluded Areas, States of Bahawalpur and Khairpur, Baluchistan and Special Areas.		
Chapter I.—Excluded and Partially Excluded Areas		
140	Excluded and Partially Excluded Areas	37
Chapter II.—States of Bahawalpur and Khairpur		
141	States of Bahawalpur and Khairpur	37
Chapter III.—Baluchistan		
142	Baluchistan	38
Chapter IV.—Special Areas		
143	Special Areas	38
144	Extent of Provincial executive authority to Special Areas	38
145	Cessation of Special Areas or part thereof	38-39
146	Financial Aid to Provinces having Special Areas	39

(vi)

PART VI

Relations between the Federation and the Unit

PARAGRAPH		PAGES
147	Subject matter of laws to be made by the Federal Legislature and by the Legislature of a Unit.	39
148	Planning and co-ordination in respect of matters in the Unit and the Concurrent Lists.	39
149	Power of the Federal Legislature to legislate for one or more Units by consent and adoption of such Legislation by any other Unit.	39
150	Repeal of the laws made by the Federal Legislature	40
151	Provisions as to legislation for giving effect to International Agreements.	40
152	Inconsistency between laws made by the Federal Legislature and laws made by the Legislatures of the Units.	40
153	Rules relating to previous sanction of Bills by the Head of the State or the Head of the Unit.	40
154	Enforcement of Federal Laws in the acceding States	40
155	Delegation of powers	40-41
156	Obligations of Units and Federation and control of Federation over Units in certain cases.	41-42
157	Disputes other than disputes relating to interpretations of Constitution.	42
158	Inter-Unit Councils	42
159	Borrowing by the Federal Government	42
160	Acquisition of land for Federal purposes	42

PART VII

Financial Provisions

161	Provisions as to the custody of public money	42-43
162	Sanction of the Head of the State with respect to State Bank, currency and coinage.	43
163	Exemption of certain public property from taxes	43
164	Exemption of taxes on electricity	43
165	Exemption of Governments of Units and Federated States in respect of Federal taxation.	43

PART VIII

Audit and Accounts and appointment of Auditor-General

166	Auditor-General of Pakistan	43-44
167	Duties and powers of the Auditor-General	44
168	Auditor-General of a Unit	44-45
169	Power of Auditor-General of Pakistan to give directions with respect to accounts.	45
170	Audit Reports	45

PART IX

Property, Contracts, Liabilities and Suits

PARAGRAPH		PAGES
171	Property accruing by escheat or lapse or as bona vacantia	45
172	Power to acquire property and to make contracts	45
173	Suits and proceedings	45
174	Prohibition on certain restrictions on internal trade	46

PART X

THE JUDICIARY

Chapter I.—The Supreme Court

175	Name of the Highest Court	46
176	Constitution of the Court	46
177	Appointment of Judges	46
178	Qualifications of Judges	46
179	Salaries and allowances of Judges	46
180	Resignation of Judges	46
181	Age of superannuation	46
182	Removal of Judges	47
183	Disabilities of Judges	47
184	Temporary appointment of Chief Justice and Puisne Judges	47
185	Appointment of Additional Judges	47
186	Appointment of <i>Ad hoc</i> Judge	48
187	Seat of the Supreme Court	48
188	Original Jurisdiction	48
189	Appellate jurisdiction in civil and constitutional matters	48-49
190	Appeal from Federated States	49
191	Jurisdiction in criminal matters	49
192	Finality of the decrees and orders of the Supreme Court	50
193	Enforcement of the decrees and orders of the Supreme Court	50
194	Enlargement of the jurisdiction	50
195	Special leave to appeal by the Supreme Court	50
196	Review of judgments or orders by the Supreme Court	50
197	Advisory jurisdiction of the Supreme Court	50
198	Rule-making power of the Supreme Court... ..	50-51
199	Powers of the Supreme Court regarding witnesses, documents, etc.,	51

PARAGRAPH		PAGES
200	Ancillary powers of the Supreme Court	51
201	Officers and staff of the Supreme Court	51
202	Safeguards for securing Independence of Judges	51-52
203	Supreme Court to be a court of Record	52
204	Power of the Supreme Court to issue certain writs	52
205	Provisions as to Judges of the Federal Court and proceedings pending therein.	52
Chapter II.—High Courts		
206	Establishment of High Court	52-53
207	Constitution of High Courts	53
208	Appointment of High Court Judges	53
209	Qualifications of Judges	53
210	Salaries of Judges	53-54
211	Age of superannuation	54
212	Resignation of Judges	54
213	Removal of Judges	54
214	Disabilities of Judges	54
215	Temporary appointment of Chief Justice and Judges	54
216	Appointment of Additional Judges	54
217	Jurisdiction of High Courts	54
218	Administrative functions	55
219	Transfer of cases from Subordinate Courts to High Courts	55
220	Power of High Courts to issue certain writs	55
221	Extension of, or exclusion from, jurisdiction of High Courts	55
222	Restrictions on powers of Legislatures of Units to make laws regarding High Court.	56
223	Rule-making power of the High Courts	56
224	Officers and staff of High Courts	56-57
225	Safeguards for securing Independence of Judges	57
226	High Courts to be courts of Record	57
227	Transfer of High Court Judges	57
228	Right to practise in a High Court other than the High Court where a lawyer is enrolled.	57
229	Interpretation	57-58
230	Provisions as to Judges of High Court	58

Chapter III.—The Subordinate Courts

PARAGRAPH		PAGE
231	Appointment of District Judges	58
232	Recruitment of persons other than District Judges to the Judicial Service.	58

PART XI

SERVICES AND PUBLIC SERVICE COMMISSIONS

Chapter I.—Services under the Federation and the Units

233	Proceedings against public servants	58-59
234	Power of the Head of the State to raise Armed Forces	59
235	Tenure of office of persons employed in civil capacities or members of the Armed Forces.	59
236	Appointment and Conditions of Service	59-60
237	Protection for the former Secretary of State's Services	60-61

Chapter II.—Public Service Commissions

238	Public Service Commission for the Federation and for the Units	61
239	Appointment of the Chairman and Members of Public Service Commissions.	61
240	Duties of Public Service Commissions	61-62
241	Composition of the Public Service Commissions	62
242	Expenses of the Public Service Commissions	62
243	All-Pakistan Services	63
244	Constitution of Public Service Commissions	63
245	Report of Public Service Commission	63

PART XII

Elections

246	Superintendence, direction and control of elections to be vested in an Election Commission.	63-64
247	Power of the Federal Legislature to make provision with respect to elections to Legislature.	64
248	Power of the Legislature of a Unit to make provision with respect to elections to such Legislatures.	64-65
249	Bar to interference by Court in electoral matters	65
250	Elections to be challenged by election petitions only	65
251	Election Tribunals	65

(X)

PART XIII

Emergency Provisions

PARAGRAPH		PAGES
252	Proclamation of Emergency	65
253	Proclamation to be approved by the Federal Legislature	65
254	Effect of Proclamation of Emergency	66
255	Revocation or variation of a Proclamation	66

PART XIV

Miscellaneous

256	Titles and decorations	67
257	Treaty-making powers	67
258	Power to receive diplomats	67
259	Power to declare war	67
260	Proceedings against Head of the State and the Head of the Unit ...	67
261	Proceedings against public servants	67
262	Oaths	67
263	Interpretation of the constitution	67
264	Capital of the Federation	67
265	Abolition of Revenue Courts	67-68
266	Nomenclature	68

PART XV

Amendment of the Constitution

267	Procedure for amendment of the Constitution	68-69
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PART XVI

Transitional Provisions

268	Continuance in force of existing laws	69
269	Adaptation of existing laws	69
270	Temporary provisions as to the functioning of the Constituent Assembly as Federal Legislature and as to the Speaker and Deputy Speaker of the Parliament.	69-70
271	Provision as to President	70
272	Provisions as to the continuance of persons, authorities, courts and legislative bodies constituted under the pre-existing law.	70
272(2) (a)	Provisions as to Ministers, Ministers of State and Deputy Ministers	70
272(2) (b)	Provisions as to Judges of Federal Court and proceedings pending in the Federal Court.	70

(xi)

PARAGRAPH		PAGES
272(2) (c)	Provisions as to Judges of High Courts	70
272(2) (d)	Provisions as to jurisdictions of courts etc.	71
272(2) (e)	Provisions as to the Public Service Commissions	71
272(2) (f)	Provisions as to the Auditor-General	71
272(2) (g)	Provisions as to the Governors of the Provinces	71
272(2) (h)	Provisions as to the Provincial Legislatures	71
273	Continuance of pending legal proceedings	71
274	Validity of decisions taken by Federal and Provincial Legislature	72
275	Adaptations by the Provincial Parliament for removal of difficulties	72

PART XVII

Language of the Republic

276	Language of the Republic	72
	Schedule I	73
	List I (Federal)	73-75
	List II (Unit)	76-77
	List III (Concurrent)	78-79
	Schedule II	80

Interim Report of the Committee on Fundamental Rights of Citizens of Pakistan and on Matters Relating to Minorities

(As adopted by the Constituent Assembly of Pakistan on the 6th October, 1950)

PART I

Citizenship

1	Citizenship at the date of commencement of the Constitution	83
2	Legislature to regulate the Right of Citizenship	83

PART II

Fundamental Rights

1	Protection of life and personal liberty and equality before Law	83
2	Protection in respect of conviction of offence	83
3	Right to move High Court for writ of <i>habeas Corpus</i>	83
4	Prohibition of discrimination on grounds of religion, race, caste or sex	83
5	Prohibition of slavery and forced labour	84
6	Prohibition of employment of children in factories, etc.	84
7	Equality of opportunity in matters of public employment	84
8	Compulsory acquisition of property	84

(xii)

PARAGRAPH		PAGES
9	Protection of certain rights regarding freedom of speech, etc. ...	84
10	Freedom of conscience and free profession, practice and propagation of religion.	84
11	Freedom to manage religious affairs, and acquisition of property for religious and charitable purposes.	85
12	Right to procure articles for religious purposes	85
13	Religious instruction in educational institutions	85
14	Freedom as to payment of taxes for propagations of any particular religion.	85
15	Savings	85
16	Abolition of untouchability	85

Report of the Committee on Fundamental Rights of Citizens of Pakistan and on Matters relating to Minorities.

(As adopted by the Constituent Assembly of Pakistan on the 7th September, 1954)

PART I

Safeguards for Minorities

1	Safeguard for language, etc.	89
2	Safeguards in respect of educational institutions	89
3	Portfolios for Minority Affairs	89

PART II

Fundamental Rights

1	No discrimination in admission to educational institutions	89
2	Safeguards against discrimination of religious institutions in taxes	89
3	Enforcement of the Fundamental Rights by moving the Supreme Court	89

PART III

Directive Principles of State Policy

1	Protection to places of worship, etc.	90
2	Promotion of educational and economic interests	90

REPORT

OF THE

BASIC PRINCIPLES COMMITTEE

**(AS ADOPTED BY THE CONSTITUENT ASSEMBLY OF PAKISTAN
ON THE 21st SEPTEMBER, 1954)**

PART I

CHAPTER I—PREAMBLE

1. The Preamble should contain the Objectives Resolution Preamble.
passed by the Constituent Assembly on the 12th March, 1949,
the terms of which are as follows :—

“In the name of Allah, the Beneficent, the Merciful ;

WHEREAS sovereignty over the entire Universe belongs to Allah Almighty alone, and the authority which He has delegated to the State of Pakistan through its people for being exercised within the limits prescribed by Him is a sacred trust ;

This Constituent Assembly, representing the people of Pakistan, resolves to frame a constitution for the sovereign independent State of Pakistan ;

WHEREIN the State shall exercise its powers and authority through the chosen representatives of the people ;

WHEREIN the principles of democracy, freedom, equality, tolerance and social justice as enunciated by Islam, shall be fully observed ;

WHEREIN the Muslims shall be enabled to order their lives in the individual and collective spheres in accord with the teachings and requirements of Islam, as set out in the Holy Quran and the Sunnah ;

WHEREIN adequate provision shall be made for the minorities freely to profess and practise their religions and develop their cultures ;

WHEREBY the territories now included in, or in accession with, Pakistan and such other territories as may hereafter be included in or accede to Pakistan shall form a Federation wherein the Units will be autonomous with such boundaries and limitations on their powers and authority as may be prescribed ;

WHEREIN shall be guaranteed fundamental rights including equality of status, of opportunity and before law, social, economic and political justice, and freedom of thought, expression, belief, faith, worship and association, subject to law and public morality ;

WHEREIN adequate provision shall be made to safeguard the legitimate interests of minorities and backward and depressed classes ;

WHEREIN the independence of the judiciary shall be fully secured ;

WHEREIN the integrity of the territories of the Federation, its independence and all its rights including its sovereign rights on land, sea and air shall be safeguarded ;

So that the people of Pakistan may prosper and attain their rightful and honoured place amongst the nations of the World and make their full contribution towards international peace and progress and happiness of humanity.”

CHAPTER II—DIRECTIVE PRINCIPLES OF STATE POLICY

Directive
Principles of
State Policy.

2. The following should be the Directive Principles of State Policy:—

- (1) The State should be guided in its policies and activities by the principles enunciated in the Objectives Resolution.
- (2) Steps, particularly those specified below, should be taken in the various spheres of governmental activities to enable the Muslims to order their lives individually and collectively in accordance with the Holy Quran and the Sunnah.
 - (a) Facilities should be provided for them to understand what life in accordance with the Holy Quran and the Sunnah means, and the teaching of the Holy Quran to the Muslim should be made compulsory ;
 - (b) Prohibition of drinking, gambling and prostitution in all their various forms ;
 - (c) Elimination of 'Riba' as and when it may be possible to do so ;
 - (d) Promotion and maintenance of Islamic moral standards ; and
 - (e) Proper organisation of Zakat, Waqfs and Mosques.
- (3) Suitable steps should be taken for bringing the existing laws into conformity with the Islamic principles, and for the codification of such injunctions of the Holy Quran and the Sunnah as can be given legislative effect duly safeguarding, as has been enjoined by the Holy Quran and the Sunnah, the personal laws of the non-Muslims.
- (4) The State should endeavour to secure basic necessities of life like food, clothing, housing, education and medical relief for those citizens of Pakistan, irrespective of caste or creed, who are temporarily or permanently incapable of earning their livelihood due to unemployment, infirmity, sickness or any other similar reason.
- (5) The economic policy of the State should be so directed as to secure an all-round well-being of the people irrespective of creed, race or colour and should be so operated as—
 - (a) to improve the standard of living of the common man ;
 - (b) to prevent the concentration of wealth and means of production in the hands of a few to the detriment of the common man ; and
 - (c) to ensure equitable adjustment of the rights of labour and the peasantry in order to prevent their exploitation.

- (6) The State should make every effort to remove illiteracy from the country within the minimum possible period and to provide for free and compulsory primary education within a period of fifteen years from the coming into force of the Constitution.
- (7) It should be the endeavour of the State to enable, within the minimum possible period, the population of different areas, through training and education, to participate fully in all forms of national activity and in defence and other services.
- (8) The State should endeavour to discourage amongst the Muslims of Pakistan parochial, tribal, racial, sectarian and provincial prejudices as well as other similar un-Islamic feelings and inculcate in them the spirit to keep foremost in their minds the fundamental unity and solidarity of the Millat and the requirements of the ideology and the mission for the implementation of which Pakistan came into being.
- (9) The State should endeavour to strengthen the bonds of unity amongst Muslim countries and to promote peace and goodwill among the peoples of the world.
- (10) Only such person should be elected as Head of the State who, in the opinion of the electors, possesses ability, character, integrity and piety, and who is fit to perform his duties and obligations in accordance with the Objectives Resolution.
- (11) It should be the endeavour of the State to effect the separation of the Judiciary from the Executive within three years.
- (12) The State should protect all the legitimate rights and interests of the non-Muslim communities of Pakistan.
- (13) The State should endeavour to ensure that children, youth and women are not subjected to exploitation or made to enter avocations unsuited to their age and sex.
- (14) It should be the endeavour of the State to provide social security for all persons in Government and private employment by means of compulsory social insurance and such other measures as may be necessary.
- (15) The State shall endeavour to—
 - (a) promote international peace and security ;
 - (b) maintain just and honourable relations between Nations ; and
 - (c) encourage settlement of international disputes by arbitration.
- (16) The State shall direct its policy towards securing its citizens—
 - (a) the right to work, the right to an adequate means of livelihood ; and
 - (b) the right to rest or leisure.

- (17) The State shall make provision for securing just and human conditions of work and for maternity relief.
- (18) It should be the endeavour of the State to so revise the pay structure of various categories of Government servants as to reduce the disparity to a reasonable minimum.

Scope of the Directive Principles.

3. The provisions contained in this chapter are intended for the general guidance of the State. The application of this principle in legislation and administration shall be the duty of the State but shall not be enforceable in any court of Law.

CHAPTER III—PROCEDURE FOR PREVENTING LEGISLATION REPUGNANT TO THE QURAN AND THE SUNNAH

No legislation to be in contravention of the Holy Quran and the Sunnah.

4. No Legislature should enact any law which is repugnant to the Holy Quran and the Sunnah.

Interpretation of the Holy Quran and the Sunnah.

5. The Holy Quran and the Sunnah, wherever these expressions occur, shall mean, when applied to any sect, such interpretation thereof, as is recognised and accepted by that particular sect.

Where objection as to repugnancy is to be taken.

6. The Supreme Court alone should have jurisdiction for determining whether or not a particular law is repugnant to the Holy Quran and the Sunnah.

Who can take objection as to repugnancy.

7. Every citizen of Pakistan should have a right to challenge the validity of the legislation on the ground of such repugnancy.

Limitation of objections as to repugnancy.

8. The application for special leave of the Supreme Court should be filed within three months from the date on which a Bill had been assented to.

Constitution of the Bench for considering objections as to repugnancy.

9. A full Bench of not less than five Judges should hear the case, and the decision that a legislation is or is not repugnant to the Holy Quran and the Sunnah should be by majority.

Exclusion of Money Bills.

10. (1) The provisions of paragraph 4 should not apply to fiscal and monetary measures, laws relating to banking, insurance, provident funds, loans and other matters affecting the existing economic, financial and credit system, except after the time and in the manner prescribed in sub-paragraph (2).

(2) After a period of 25 years a Commission should be appointed to report on the steps and stages by which sub-paragraph (1) can be amended so as to make paragraph 4 applicable to the matters mentioned in sub-paragraph (1).

(3) The terms and conditions of contracts and commitments made before the implementation of the recommendations of the Commission should not be affected.

11. (1) An organisation should be set up for making the teachings of Islam known to the people, and for 'Amr-bil-maruf' and 'Nahi-anil-munkar'. Setting up of organization for Amr-bil-maruf and Nahi-anil-munkar.

(2) The proceeds of a special tax shall be specifically appropriated in payment of expenses for this organisation and its propagation and maintenance.

PART II

The Federation and its Territories

12. (1) The name of the State should be the Islamic Name and Republic of Pakistan which should be a Federation of the Provinces including Baluchistan, the Capital of the Federation, such States as have acceded or may accede to the Federation and such other areas as formed part of the Islamic Republic of Pakistan immediately before the commencement of the Constitution or may hereafter be included in it. Name and territories of the Federation.

(2) For the accession of any territory to the Federation the consent of the Head of the State should be sufficient.

13. The Federal Legislature may by law—

- (a) increase the area of any Unit;
- (b) diminish the area of any Unit;
- (c) alter the boundaries of any Unit;
- (d) alter the name of any Unit; and
- (e) form a new Unit by separation of territory from any Unit or by uniting two or more Units or parts of Units or by uniting any territory to a part of any Unit:

Alteration of boundaries and names of Units

Provided that no Bill for any of the purposes aforesaid should be introduced in either House of the Federal Legislature except with the previous sanction of the Head of the State and unless—

- (a) when the initiative is taken in the matter by a Unit, resolution in that behalf has been passed by the Legislature of the Unit or Units affected; and
- (b) when the initiative is taken by the Centre, the consent of the Legislature of any Unit which will be affected by the proposed Bill, with respect to the proposal to introduce the Bill and with respect to the provisions thereof, has been obtained by the Head of the State.

PART III

The Federation

CHAPTER I—THE EXECUTIVE

The Head of the State

14. (1) There should be a Head of the State.

The Head of the State.

(2) The executive power of the Federation should vest in the Head of the State to be exercised by him in accordance with the Constitution and the law.

(3) Except in cases where it is provided that the Head of the State should act in his discretion, he is to act on the advice of his Minister or Ministers.

Election of the Head of the State. 15. (1) The Head of the State should be a Muslim and should be elected at a joint sitting of both the Houses of the Federal Legislature.

(2) A member of the Legislature, if elected as Head of the State, should cease to be such member :

Provided that the members voting for the successful candidate must include at least 30 per cent. of the total number of members from the Eastern Zone and the Western Zone.

Definition of "Eastern Zone" and "Western Zone". 16. Wherever in this Constitution the expressions "Eastern Zone" and "Western Zone" occur, the former means 'East Bengal' and the latter the following four constituent parts :

1. Punjab.
2. N.-W. F. P., Frontier States and Tribal Areas.
3. Sind and State of Khairpur.
4. Baluchistan, Baluchistan States Union, Capital of the Federation (Karachi) and the State of Bahawalpur.

Rules for the election of the Head of the State. 17. (1) The Federal Legislature should at a joint sitting frame rules for the election of the Head of the State and until rules are so framed the election of the Head of the State should be conducted in accordance with the rules to be framed by the Constituent Assembly of Pakistan.

(2) The election of the Head of the State should not be called in question in any court of Law.

Qualification for election as Head of the State. 18. (1) No person should be eligible for election as Head of the State unless he—

- (a) is a citizen of Pakistan ;
- (b) has attained the age of forty years ; and
- (c) is qualified for election as a member of the House of the People.

(2) A person should not be eligible for election as Head of the State if he holds any office of profit under the Federal Government, or the Government of a Unit, or under any local or other authority subject to the control of any of the said Governments.

Explanation.—For the purpose of this paragraph a person should not be deemed to hold any office of profit by the reason only that he is the Head of the State or the Head of a Unit, or is a Minister of the Federal Government or of the Government of a Unit.

Term of office of the Head of the State. 19. The term of office of the Head of the State should be five years from the date of his assumption of office. In case of a vacancy in the office of the Head of the State as a result of death, resignation, incapacity or otherwise, the term of office of the new Head of the State should be for the unfinished period of the term.

20. No person should be allowed to hold the office of the Head of the State consecutively for more than two full terms. Eligibility for re-election.

21. (1) In the event of the occurrence of any casual vacancy in the office of the Head of the State, one of the following persons, if otherwise qualified for election as Head of the State, should act as Head of the State until such time as he resumes office or a new Head of the State is elected :— Casual vacancy in the office of the Head of the State.

- (i) the Chairman of the House of Units ;
- (ii) the Chairman of the House of the People ;
- (iii) the Head of a Unit present in Pakistan in order of seniority from the date of appointment.

(2) As long as the Chairman of the House of Units acts as the Head of the State, he should not act as the Chairman of the House of Units, or in any other way take part in its proceedings. He should not, however, on account of his acting as Head of the State, lose his seat or his office in the House of Units. The same rule should apply *mutatis mutandis* to the Chairman of the House of the People and to the Head of the Unit, if either of them has to act as Head of the State.

22. The Head of the State should be required to take the following oath :— Oath by the Head of the State.

“ I, _____, do swear in the name of Allah that I will faithfully discharge the duties of the office of (the Head of the State) of Pakistan according to law, that I will preserve, protect and defend the Constitution, that I will do right to all manner of people according to laws and usages of Pakistan without fear or favour, affection or ill-will and that, in my public and personal life, I will endeavour to fulfil the obligations and duties enjoined by Islam.”

23. The Federal Legislature should be entitled to make provision for the discharge of the functions of the Head of the State in certain contingencies not provided for in the Constitution, and enactment of any law by the Federal Legislature for this purpose should not be deemed to be an amendment of the Constitution. Powers of the Head of the State in certain contingencies.

24. The supreme command of the Armed Forces should vest in the Head of the State. Supreme Command of the Armed Forces.

25. The Supreme Commander, if any, of the Armed Forces, the Commander-in-Chief of each of the three Armed Forces, and officers in the Armed Forces should be appointed by the Head of the State. Appointment of Supreme Commander, Commanders-in-Chief and officers of the Armed Forces.

26. The following powers should be exercised by the Head of the State in his discretion :— Discretionary powers of the Head of the State.

- (1) Powers of clemency throughout Pakistan where the exercise of this power is not forbidden by the Holy Quran and the Sunnah.

(2) Appointment of the Election Commission and Election Tribunals.

Salary and allowances of the Head of the State. 27. (1) Suitable provision should be made by Act of the Federal Legislature for fixing the pay and allowances of the Head of the State, and until a provision in that behalf is so made by the Federal Legislature, the Head of the State should be entitled to such pay, allowances and privileges as were payable to and enjoyable by the Governor-General of Pakistan immediately before the commencement of the Constitution: provided that these should not be varied to the disadvantage of an incumbent during his term of office.

(2) A reasonable sum in the form of pension or allowance may be allowed to the Head of the State for life after his retirement. This allowance or pension should be suspended while he is holding any office of profit under the Government.

(3) If the Head of the State is removed, in accordance with the Constitution, for misconduct, he should not be entitled to any allowance or pension.

Removal of the Head of the State. 28. (1) The Federal Legislature should be entitled to remove the Head of the State from his office provided a requisition to that effect is received from a majority of the members of either House and a resolution is passed at a joint sitting of both the Houses of the Federal Legislature, by a majority of not less than two-thirds of the total strength of the two Houses.

(2) A month's notice should be necessary for moving a motion for the removal of the Head of the State.

Extent of the executive authority of Federal Government. 29. Subject to the provisions of the Constitution, the executive authority of the Federation should extend—

- (a) to the matters with respect to which the Federal Legislature has power to make laws;
- (b) to the exercise of such rights, authority and jurisdiction as are exercisable by the Federal Government by virtue of any treaty or agreement:

Provided that the executive power referred to in subparagraph (a) should not, save as expressly provided in the Constitution or in any law made by the Federal Legislature, extend in any Unit or Federated State to matters with respect to which the Legislature of the Unit or of the Federated State has power to make laws.

Cabinet

Cabinet to aid and advise the Head of the State. 30. (1) There should be a Cabinet, with the Prime Minister at the head, to aid and advise the Head of the State in the exercise of his functions, except in those cases where he is empowered to act in his discretion.

(2) The question whether any, and if so what, advice has been tendered by Ministers to the Head of the State should not be enquired into in any court.

(3) The Cabinet so formed shall seek a vote of confidence within two months' time of taking office.

(4) No person who is not a member of the Federal Legislature shall be called upon to form a Ministry.

31. (1) The Prime Minister should be appointed by the Head of the State and other Ministers, including Ministers of State, Deputy Ministers and Parliamentary Secretaries, should be appointed by the Head of the State on the advice of the Prime Minister. Other provisions as to Ministers.

(2) Ministers of State, Deputy Ministers and Parliamentary Secretaries should not be members of the Cabinet.

(3) The Members of the Cabinet, Ministers of State, Deputy Ministers and Parliamentary Secretaries should be appointed from amongst the members of the Federal Legislature.

32. The salaries and allowances of Ministers, Ministers of State, Deputy Ministers and Parliamentary Secretaries should be such as the Federal Legislature may from time to time by Act determine, and until the Federal Legislature so determines, should be the same as were payable immediately before the commencement of the Constitution : Salaries and allowances of Ministers, etc.

Provided that these should not be varied to the disadvantage of an incumbent during his term of office.

33. The Cabinet should be collectively responsible to Federal Legislature. Joint responsibility.

34. The Ministers should be required to take oaths of allegiance, office and secrecy : Oath of Ministers.

Provided that in the case of a Muslim Minister the oath of office should include an affirmation to the effect that both in his personal and public life he will endeavour to fulfil the obligations enjoined by Islam.

35. The action of the Head of the State in appointing or dismissing a Minister should not be called in question in any court of Law. Protection in respect of choosing Ministers.

The Advocate-General for Pakistan

36. (1) There should be an Advocate-General for Pakistan to be appointed by the Head of the State. He should be a person qualified to become a Judge of the Supreme Court. There should be no age limit. Advocate-General for Pakistan.

(2) The Advocate General should hold office during the pleasure of the Head of the State and should receive such remuneration as may be determined by Act of the Federal Legislature, and until so determined, such remuneration as was payable immediately before the commencement of the Constitution :

Provided that it should not be varied to the disadvantage of an incumbent during his term of office.

Conduct of Government business

37. Provision should be made for framing rules by the Head of the State for the conduct of Government business. Conduct of business of the Federal Government.

38. Provision should be made whereby the Head of the State should be kept informed of all the decisions of the Cabinet and proposals for legislation. The Head of the State should also be furnished with such information relating to the administration of the affairs of the State and proposals for legislation as he might call for. Duties of Prime Minister as respects furnishing of information to the Head of the State.

CHAPTER II—THE FEDERAL LEGISLATURE

Constitution
of the
Federal
Legislature.

39. There should be a Federal Legislature consisting of two Houses which will in these recommendations be called the House of Units and the House of the People.

Right of
sending
messages to
the Federal
Legislature.

40. The Head of the State may send messages to either House of the Federal Legislature, whether with respect to a Bill then pending in the Federal Legislature or otherwise, and the House to which any message is so sent should, with all convenient dispatch, consider any matter which they are required by the message to take into consideration.

(A) *The House of Units*

Composition
of the House
of Units.

41. (1) Apart from the two additional seats temporarily reserved for women as provided hereinafter in paragraph 47 the House of Units shall consist of 50 members who shall be elected in the manner hereinafter provided.

(2) For the purpose of this paragraph Pakistan shall be deemed to consist of the five constituent parts specified below and to each of the said constituent parts, there shall be allocated 10 seats in the House of Units :

- (a) East Bengal.
- (b) Punjab.
- (c) N.-W.F.P., Frontier States and Tribal Areas.
- (d) Sind and the State of Khairpur, and
- (e) Baluchistan, Baluchistan States Union, Capital of the Federation (Karachi) and the State of Bahawalpur.

(3) The distribution of seats amongst the following constituent parts which consist of more than one Unit is to be as under :—

- | | |
|---|----|
| (a) North-West Frontier Province including Frontier States and Tribal Areas | 10 |
| (b) Sind | 9 |
| State of Khairpur | 1 |
| (c) Baluchistan including Baluchistan States Union | 3 |
| Capital of the Federation (Karachi) | 3 |
| State of Bahawalpur | 4 |
| (d) Where a Unit has a Legislature, the members of the House of Units shall be elected by the Legislature of the Unit concerned according to the principle of proportional representation by means of a single transferable vote. | |
| (e) Where a Unit or part of a Unit has no Legislature, the manner of filling seats allocated to that Unit or that Unit in the House of Units shall be determined by an Act of the Federal Legislature. | |

(4) Notwithstanding anything in the preceding sub-paragraphs, ten members to represent the North-West Frontier Province, Frontier States and Tribal Areas shall be elected in accordance with the principle of proportional representation by means of the single transferable vote by an electoral college consisting of the members of the Legislative Assembly of the North-West Frontier Province and such number of persons from amongst the people of the Frontier States and Tribal Areas as may be elected for the purpose and if election is not possible in any area then nominated for this purpose in the manner provided by the rules framed by the President :

Provided that the number of members representing the Tribal Areas and Frontier States shall be so fixed that it shall bear the same proportion to the population of these States and Areas as the number of members of the Legislative Assembly of the North-West Frontier Province bears to the population of that Province.

(5) Notwithstanding anything in the preceding sub-paragraphs, three members to represent Baluchistan and Baluchistan States Union shall be elected in accordance with the principle of proportional representation by means of the single transferable vote by an electoral college consisting of the members of the Legislative Assembly of Baluchistan and such number of persons from amongst the people of Baluchistan States Union as may be elected for this purpose :

Provided that the number of members representing Baluchistan States Union shall be so fixed that it shall bear the same proportion to the population of the States Union as the number of members of the Legislative Assembly of Baluchistan bears to the population of that Province.

42. (1) Notwithstanding anything in the Constitution the Federal Legislature may by law re-allocate seats in the House of Units subject to the following limitation, namely :—

Re-allocation of seats in the House of Units.

That such re-allocation shall not be made except when any area in a Unit is merged with any area in another Unit, or when re-adjustment of areas from one Unit to another Unit takes place or when two or more Units get merged into one (in the manner prescribed under paragraph 13 of the Report) and such merger or re-adjustment results in increase or decrease of population.

(2) An Act of the Federal Legislature passed under this paragraph shall not be deemed to be an amendment of the Constitution for the purpose of paragraph 224.

43. (1) A person should not be qualified to be chosen to fill a seat in the House of Units unless he—

Qualification for membership of the House of Units.

- (i) is a citizen of Pakistan ;
- (ii) has attained the age of thirty years ;
- (iii) is able to read and write in some language ; and
- (iv) is entitled to vote in the choice of a member to fill a seat in the Legislature of the Unit by which he seeks to be elected :

Provided that the provisions of clause (iv) should not apply in the case of a Unit which has no legislature of its own. In

that case he must be a voter in a territorial constituency in that Unit for the House of the People.

(2) Members of the Legislature of a Unit electing members for the House of Units as well as persons who are not members of that Legislature should be equally eligible for election to the House of Units if they are otherwise duly qualified.

Vacation of
seats by
members.

44. (1) No person should be—

- (i) a member of both the Houses of the Federal Legislature ; or
- (ii) a member of the Federal Legislature as well as of the Legislature of a Unit or of a Federated State ; or
- (iii) a member of the Legislature of a Unit and of a Federated State ; or
- (iv) a member of the Legislature of two or more Units.

(2) If a person is elected to more than one seat in contravention of the provisions of sub-paragraph (1), he should vacate his seat or seats except one. If he fails to do so within thirty days of his election to the seat to which he has been elected last he should be deemed to have vacated all his seats.

Disqualifi-
cations for
membership
of the
House of
Units.

45. A person should be disqualified for being chosen as, and for being, a member of the House of Units—

- (a) if he is of unsound mind and stands so declared by a competent court ;
- (b) if he is an undischarged insolvent ;
- (c) if he holds an office of profit under the Federal Government or under the Government of a Unit, or under any other Government except an office declared by an Act of the Federal Legislature not to disqualify its holder :

Provided that for this purpose a person should not be deemed to hold an office of profit under the Federal Government or under the Government of a Unit by reason only that he is a Minister, Minister of State, Deputy Minister or a Parliamentary Secretary for the Federal Government, or a Minister or a Deputy Minister or a Parliamentary Secretary for the Government of a Unit ;

- (d) if he has been found guilty, by a competent court in Pakistan, of any offence or illegal practice relating to elections which has been declared by any law or rules, for the time being in force, to be an offence or practice entailing disqualification for membership of the Legislature ;
- (e) if he has been convicted of any other offence involving moral turpitude before or after the commencement of the Constitution, by a competent court in

Pakistan and sentenced to life imprisonment or to imprisonment for not less than two years, unless a period of five years has elapsed since his release ;

- (f) if, having been nominated as a candidate for the Federal Legislature or the Legislature of a Unit 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 rules or orders for the time being in force or by a law of any legislative authority in Pakistan, unless five years have elapsed from the date by which the return ought to have been lodged or the Head of the State has removed the disqualification :

Provided that a disqualification under this sub-paragraph should not take effect until the expiration of one month from the date by which the return ought to have been lodged or such longer period as the Head of the State may in any particular case allow ;

- (g) if he has been dismissed for misconduct from service or from a post in connection with the affairs of the Federation or of a Unit unless a period of five years or such less period as the Head of the State may allow in any particular case, has elapsed since his dismissal ;
- (h) if he is not a citizen of Pakistan or having been a citizen of Pakistan has voluntarily acquired the citizenship of, or owes allegiance to, or is under any acknowledgment of allegiance or adherence to, a foreign State.

(B) The House of the People

46. (1) In addition to the 14 seats temporarily reserved for women as mentioned in paragraph 47 of this Report, the House of the People shall consist of 300 members who shall be elected in the manner hereinafter provided.

(2) The allocation of seats to each of the Units shall be as follows :—

(a) East Bengal	..	..	..	165
(b) Punjab	..	..	..	75
(c) N.-W. F. P.	..	..	..	13
(cc) Frontier States and Tribal Areas	..	..	..	11
(d) Sind	..	..	..	19
(dd) State of Khairpur	..	..	..	1
(e) Baluchistan	..	..	..	3
(ee) Baluchistan States Union	..	..	..	2
(eee) The Capital of the Federation	..	..	..	4
(eeee) Bahawalpur State	..	..	..	7

(3) The election of the members shall be from single-member constituencies, which should be drawn in such a manner as to ensure that within a Unit or the Capital of the Federation all the constituencies of a particular community have, as far as possible, equal number of voters.

(4) The manner and method by which seats allotted to the Frontier States and Tribal Areas in the House of the People are to be filled on the basis of elections wherever possible or by nomination when election is not possible shall be determined by regulations framed in that behalf by the President.

(5) The manner and method of election by which seats allotted to Baluchistan States Union are to be filled shall be determined by regulations framed in that behalf by the President.

Reservation
of additional
seats for
women.

47. (1) There shall be in the manner provided in the next succeeding sub-paragraphs additional seats reserved for women in the House of Units and in the House of the People for a period of 10 years from the commencement of the Constitution.

(2) The House of Units will have in addition to its normal strength two additional seats reserved for women, one to be filled in by the Provincial Legislature of East Bengal and the other by the members of the Provincial Legislatures of the Units in the Western Zone and by the electoral colleges that will be set up in accordance with the provisions of paragraph 41.

(3) Fourteen additional seats shall be reserved for women in the House of the People to be filled in by women voters only. The allocation shall be as follows :—

East Bengal	..	..	..	7
Punjab	..	..	..	3
Sind and Khairpur	..	..	..	1
N.-W. F. P., Frontier States and Tribal Areas	..	..	..	1
Baluchistan, Baluchistan States Union and Bahawalpur	..	..	..	1
Capital of the Federation, i.e., Karachi				1

(4) The Federal Legislature may by law provide the manner in which the constituencies from which these seats shall be filled will be determined.

Representa-
tion of
Kashmir and
Junagadh.

48. (1) Suitable provisions with regard to the State of Jammu and Kashmir will be made in the Constitution at the appropriate time and in accordance with the wishes of the people of that State.

(2) The representation of Junagadh and Manavadar in the Federal Legislature will be determined after their liberation.

49. (1) Notwithstanding anything in the Constitution, the Federal Legislature may by law re-allocate seats in the House of the People to the Capital of the Federation and the various Units in the Western Zone in any of the following circumstances :—

Re-allocation of seats in the House of the People.

- (a) In the case of merger of one area with another or re-adjustment of areas or when two or more Units are merged together and such re-adjustment or merger results in substantial increase or decrease of population ;
- (b) on the completion of each census on the ground of increase or decrease of population.

(2) An Act of the Federal Legislature passed under this paragraph shall not be deemed to be an amendment of the Constitution for the purpose of paragraph 267.

50. Seats should be allocated to communities in the House of the People, in accordance with the table appearing in Schedule of these recommendations which should be suitably modified in accordance with the composition of the House of the People.

Allocation of seats to communities.

51. A person should not be qualified to be chosen to fill a seat in the House of the People unless he—

Qualifications for membership of the House of the People.

- (i) is a citizen of Pakistan ;
- (ii) has attained the age of twenty-five years ;
- (iii) is able to read and write in some language ; and
- (iv) is entitled to vote in the choice of a member to fill a seat in the Legislature of the Unit from where he seeks election :

Provided that the provision of clause (iv) should not apply in the case of a Unit which has no legislature of its own. In that case he must be a voter in a territorial constituency in that Unit for the House of the People.

52. A person should be disqualified for being chosen as, and for being a member of the House of the People—

Disqualification for membership of the House of the People.

- (a) if he is of unsound mind and stands so declared by a competent court ;
- (b) if he is an undischarged insolvent ;
- (c) if he holds an office of profit under the Federal Government or under the Government of a Unit, or under any other Government except an office declared by Act of the Federal Legislature not to disqualify its holder :

Provided that for this purpose a person should not be deemed to hold an office of profit under the Federal Government or under the Government of a Unit by

reason only that he is a Minister, Minister of State, Deputy Minister or a Parliamentary Secretary for the Federal Government or a Minister or a Deputy Minister or a Parliamentary Secretary for the Government of a Unit ;

- (d) if he has been found guilty, by a competent court in Pakistan, of any offence or illegal practice relating to elections which has been declared by any law or rules for the time being in force to be offence or practice entailing disqualification for membership of the Legislature ;
- (e) if he has been convicted of any other offence involving moral turpitude before or after the commencement of the Constitution, by a competent court in Pakistan and sentenced to life imprisonment or to imprisonment for not less than two years, unless a period of five years has elapsed since his release ;
- (f) if having been nominated as a candidate for the Federal Legislature or the Legislature of a Unit 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 rules or orders for the time being in force or by a law of any legislative authority in Pakistan, unless five years have elapsed from the date by which the return ought to have been lodged, or the Head of the State has removed the disqualification :

Provided that a disqualification under this sub-paragraph should not take effect until the expiration of one month from the date by which the return ought to have been lodged, or such longer period as the Head of the State may, in any particular case, allow ;

- (g) if he has been dismissed for misconduct from service or from a post, in connection with the affairs of the Federation, or a Unit, unless a period of five years or such less period as the Head of the State may allow in any particular case, has elapsed since his dismissal ;
- (h) if he is not a citizen of Pakistan or having been a citizen of Pakistan has voluntarily acquired the citizenship of, or owes allegiance to, or is under any acknowledgment of allegiance or adherence to, a foreign State.

Franchise. -53. (1) Every citizen of Pakistan who has attained the age of twenty-one years should be entitled to vote at elections to the House of the People :

Provided that he should be entitled to vote only in the constituency in the electoral roll of which his name is for the time being included.

(2) A person should not be qualified to be included in the electoral roll of any constituency unless he has a place of residence in that constituency.

In this sub-paragraph "a place of residence" means a place where a person ordinarily resides during the greater part of the year :

Provided that in the case of persons holding parliamentary offices such as Ministers, Ministers of State, Deputy Ministers and Parliamentary Secretaries for the Federal Government and Ministers, Deputy Ministers, and Parliamentary Secretaries for the Government of the Unit, and Chairman and Deputy Chairman of the Houses of the Federal Legislature and the Legislature of the Unit, the non-fulfilment of the condition relating to residence should not have a disqualifying effect :

Provided further that a person who holds a public office or is employed in connection with the affairs of a Unit or the Federation or is a member of the defence services and who in the discharge of his official duty or on account of such employment or membership is absent from the place of ordinary residence should be deemed to be resident in the constituency in which he would have been qualified to vote immediately before the commencement of his absence :

Provided further that where a person becomes qualified to be entered on the electoral roll of a constituency under the proviso immediately preceding, his wife should also be deemed to have become so qualified if she is otherwise qualified.

(3) No person should vote at a general election in more than one territorial constituency and provision should be made for the purpose of preventing persons from being included in the electoral roll for more than one territorial constituency.

(4) Even if the name of a person appears on the rolls of more than one constituency he should exercise his right of vote only in one constituency.

(5) If a person votes in more than one constituency in contravention of this paragraph, his votes in each of the constituencies should be void.

(6) Notwithstanding anything in the foregoing provisions, separate electoral rolls should be maintained for Muslims as well as for every minority community for whom seats have been reserved and no person who does not belong to the community for which the electoral roll purports to be, should be included in that electoral roll.

54. No person should be included in the electoral roll for, or vote at any election in, any constituency—

Disqualifications for franchise.

- (a) if he is of unsound mind and stands so declared by a competent court ;
- (b) if he is an undischarged insolvent ;
- (c) if he has been found guilty by a competent court in Pakistan of any offence or illegal practice relating to elections which has been declared by any law or rules for the time being in force to be an offence or practice entailing disfranchisement ;
- (d) if he has been convicted of any other offence involving moral turpitude before or after the commencement of the Constitution by a competent court in

Pakistan and sentenced to life imprisonment or to imprisonment for not less than two years, unless a period of five years has elapsed since his release.

Decision on questions as to disqualification of members.

55. If any question arises as to whether a member of either House of the Federal Legislature has become subject to any of the disqualifications mentioned in paragraphs 45 and 52, the Chairman of the House concerned should obtain the opinion of the Election Commission and should act in accordance with such opinion.

Penalty for sitting and voting by persons not qualified or when disqualified.

56. If a person sits or votes as a member of either House of the Federal Legislature, before he has taken the prescribed oath, or when he knows that he is not qualified or is disqualified for membership thereof, or when he is prohibited from so doing by the provision of any law made by the Federal Legislature, he should 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 Federal Government.

Absence without leave.

57. Provision should be made that a member should vacate his seat if he absents himself from the Legislature for sixty consecutive sitting days without leave of the House.

Term of the Federal Legislature.

58. The life of either House of the Federal Legislature should be five years, unless sooner dissolved.

Time limit for holding general or bye-elections.

59. Provision should be made for holding general or bye-election as and when such election falls or becomes due as early as possible but in no case there should be a delay for more than six months.

Summoning of the Houses of the Federal Legislature.

60. (1) The Legislature should be summoned by the Head of the State.

(2) Not less than two sessions should be held every year, one of which shall be held at Dacca, unless the Federal Legislature in a joint session determines otherwise, and not more than six months should elapse between the last day of one session and the first day of the next.

(3) Each House of the Legislature shall remain in session for a total period of at least six months in a year.

Summoning of joint session of the Houses of the Federal Legislature.

61. (1) The Legislature should be summoned for a joint sitting in the following cases :—

- (a) conflict between the two Houses of the Federal Legislature ;
- (b) election and removal of the Head of the State ;
- (c) for a vote of confidence or no-confidence ;
- (d) framing of rules for joint sittings and for certain Secretariat appointments common to both Houses ;
- (e) in any other case for which provision has been made in the Constitution.

(2) The power to convene a joint sitting should vest in the Head of the State except in the case of sub-paragraph (1) (b) above, when the authority to summon the Legislature to meet in a joint sitting should vest in the person who is entitled to preside over the joint sittings.

62. The Federal Legislature should be prorogued by an order of the Head of the State.

Prorogation of the Federal Legislature.

63. (1) Authority to dissolve the Federal Legislature should vest in the Head of the State.

Dissolution of the Federal Legislature.

(2) No dissolution should take place on the advice of the caretaker ministry which functions between the date of the dissolution of the Legislature and the formation of a new Ministry after fresh elections.

(3) If a contingency arises wherein no such Ministry as can command the confidence of the Federal Legislature can be formed, the Head of the State should be authorised to dissolve the Federal Legislature in exercise of his discretion and hold fresh elections.

64. The two Houses of the Federal Legislature should have equal powers.

Powers of the two Houses of Federal Legislature.

65. If in respect of any matter a difference of opinion arises between the two Houses, a joint session of the two Houses should be summoned by the Head of the State to decide the matter and any motion with regard to that matter should not be deemed to have been passed unless the majority supporting the motion includes at least 30 per cent. of the members present and voting from each of the two zones.

Procedure in case of conflict between the two Houses of the Federal Legislature.

66. No motion for confidence or no-confidence should be deemed to have been passed unless the majority supporting it includes at least 30 per cent. of the total number of members from each zone.

Procedure for motions of confidence and no-confidence.

67. (1) The Ministers, including Ministers of State, Deputy Ministers and Parliamentary Secretaries, should have the right to address either House of the Legislature even though they may not be members of that House. A Minister including a Minister of State, a Deputy Minister and a Parliamentary Secretary should not vote in the House of which he is not a member.

Right of Ministers and Advocate-General as respects the Federal Legislature.

(2) The Advocate General should have no right of vote in either House, but he should be entitled to address either House or a joint sitting of the two Houses of the Federal Legislature.

68. (1) Each House of the Federal Legislature should have a Chairman and a Deputy Chairman.

The Chairman and the Deputy Chairman of the Federal Legislature.

(2) Provision should be made regarding the election and removal of the Chairman and the Deputy Chairman on the following lines :—

(a) Each House of the Federal Legislature should, as soon as may be, choose two members of the House to be, respectively, Chairman and Deputy Chairman thereof and, so often as the office of Chairman or Deputy Chairman becomes vacant, the House concerned should choose another member to be Chairman or Deputy Chairman as the case may be.

(b) A member holding office as Chairman or Deputy Chairman of any of the Houses should vacate his office if he ceases to be a member of the House, and may at

any time resign his office by writing under his hand addressed to the Head of the State and may be removed from his office by a resolution of the House passed by a majority of all the then members of the House, but no resolution for the purpose of this sub-paragraph should be moved unless at least fourteen days' notice has been given of the intention to move the resolution :

Provided that whenever a House of the Federal Legislature is dissolved, the Chairman shall not vacate his office until immediately before the first meeting of the House after dissolution.

- (c) While the office of the Chairman is vacant, the duties of the office should be performed by the Deputy Chairman, or if the office of the Deputy Chairman is also vacant, by such member of the House as the Head of the State may appoint for the purpose. During the absence of the Chairman from any sitting of the House, the Deputy Chairman or, if he is also absent, such person as may be determined by the rules of procedure of the House, or if no such person also is present, such other person as may be determined by the House should act as Chairman.
- (d) While acting as Chairman of the House concerned, the Deputy Chairman should exercise similar powers as the Chairman. There should also be provision for the delegation of powers relating to admissibility of questions, resolutions, bills and motions by the Chairman to the Deputy Chairman or to the person who acts as Chairman of the meeting in the absence of the Chairman and the Deputy Chairman.
- (e) In joint sittings the Chairman of the House of Units should preside. In his absence the Chairman of the House of the People should preside and in case both of them are absent, such other person as may be determined by rules.

Salary and allowances of the Chairman and the Deputy Chairman.

69. There should be paid to the Chairman and the Deputy Chairman of each House of the Federal Legislature such salaries and allowances as may be determined by Act of the Federal Legislature and until provision in that behalf is so made such salaries and allowances as were payable immediately before the commencement of the Constitution to the President and the Deputy President of the Constituent Assembly of Pakistan : provided that these should not be varied to the disadvantage of an incumbent during his term of office.

The Chairman and the Deputy Chairman not to preside when a resolution for his removal is under discussion.

70. At any sitting of either House of the Federal Legislature while a resolution for the removal of the Chairman or of the Deputy Chairman from his office is under consideration the Chairman or the Deputy Chairman, as the case may be, should not preside though he is present ; but he should have the right to speak in or otherwise take part in the proceedings of the House.

71. (1) The Secretariat of either House of the Federal Legislature should be independent and should be under the House concerned. The Secretariat of the Federal Legislature.

(2) Nothing in this paragraph should prevent the creation of posts common to both the Houses of the Federal Legislature.

(3) Recruitment and conditions of service, including punishment of and disciplinary action against the officers and staff of the Secretariat of the Federal Legislature should be at par with the corresponding services of the Federal Government, but the recommendations of the Public Service Commission, instead of going to the Federal Government, should go to the Chairman of the House concerned.

72. (1) The Finance Committee of each House of the Federal Legislature should scrutinise all the financial proposals relating to the expenditure of that House and thereafter the Budget should be presented to the House. The Finance Committee.

(2) The Chairman of each House should be the Chairman and the Finance Minister an *ex-officio* member of the Finance Committee. The Finance Committee of each House should exercise powers of control and direction in matters relating to finances of that House similar to those as were exercisable by the Standing Finance Committee of the Central Government in relation to the affairs of the Government immediately before the commencement of the Constitution.

(3) Each House of the Federal Legislature should have power to make rules of procedure for the timely completion of business relating to its budget.

(4) The Finance Committee should frame rules to secure to itself closer contact and effective voice in regulating the finances of the House to which it relates.

73. (1) A member of the Federal Legislature should be required to take an oath of allegiance to Pakistan. No member should take his seat in either House of the Federal Legislature until he has taken the prescribed oath: Oath of members: failure or refusal to take oath.

Provided that in the case of a Muslim member the oath should state that he would endeavour to fulfil the duties and obligations enjoined by Islam.

(2) Where a member fails to take the oath of allegiance within a period not exceeding six months from the date of the first meeting of the Legislature, or refuses to take the oath, his seat should be declared vacant: provided that before the expiry of the said period the Chairman may, on good cause being shown, extend the period.

74. Provision should be made empowering each House of the Federal Legislature to legislate in regard to privileges of the House and its members. Pending such legislation the present position should continue. Privileges of the Federal Legislature and of the Members and Committees thereof.

75. Members of either House of the Federal Legislature should be entitled to receive such salaries and allowances as may from time to time be determined by Act of the Federal Legislature and until provision in that behalf is so made, such salaries and allowances as were payable immediately before the commencement of the Constitution to the members of the Salaries and allowances of members.

Constituent Assembly of Pakistan : provided that these should not be varied to the disadvantage of the members during their term of membership.

Voting and quorum in the Houses of the Federal Legislature.

76. (1) Except in cases in which a specific majority is provided, all decisions in each of the Houses of the Federal Legislature should be taken in accordance with the rules framed by the House concerned. The presiding officer of any House of the Federal Legislature should not exercise any vote excepting a casting vote in case of a tie.

(2) The Houses of the Federal Legislature should have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in either House of the Federal Legislature should 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) The quorum for a meeting of each House or for a joint sitting of both the Houses, should be one-seventh of the total number of members of each House or of both the Houses as the case may be.

Ordinances by the Head of the State.

77. The Head of the State should have power to promulgate ordinances during the period when the Legislature is not sitting. An ordinance promulgated under this paragraph should be laid before the Federal Legislature at its next meeting and should cease to operate at the expiration of six weeks from the re-assembly of the Federal Legislature.

Joint sittings of both the Houses.

78. Rules for joint sittings of the two Houses should be framed at a joint sitting of both the Houses of the Federal Legislature.

Assent to Bills.

79. When a Bill has been passed by the Houses of the Federal Legislature, it should be presented to the Head of the State and the Head of the State should declare within ninety days either that he assents to the Bill or that he withholds assent therefrom :

Provided that the Head of the State may, as soon as possible after presentation to him of a Bill for assent, return the Bill if it is not a Money Bill, to the Houses with a message requesting that the Houses should reconsider the Bill or any specified provisions thereof and, in particular, should consider the desirability of introducing any such amendments as he may recommend in his message, and when a Bill is so returned, the Houses should reconsider the Bill accordingly, and if the Bill is passed again by the Houses with or without amendment and presented to the Head of the State for assent, the Head of the State should not withhold assent therefrom.

Procedure in financial matters

Annual Financial Statement.

80. (1) The Head of the State should, in respect of every financial year, cause to be laid before the Federal Legislature a statement of estimated receipts and expenditure of the Federation for that year, in the Constitution referred to as the "Annual Financial Statement".

(2) The estimates of expenditure embodied in the annual financial statement should show separately—

- (a) the sums required to meet expenditure described by the Constitution as expenditure charged upon the revenues of the Federation; and
- (b) the sums required to meet other expenditure proposed to be made from the revenues of the Federation;

and should distinguish expenditure on revenue account from other expenditure.

(3) The following expenditure should be expenditure charged on the revenues of the Federation:—

- (a) the salary and allowances of the Head of the State and other expenditure relating to his office;
- (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) the salary, allowances and pensions payable to or in respect of the Judges of the Supreme Court and the pensions payable to or in respect of Judges of any High Court;
- (d) any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal;
- (e) any other expenditure declared by the Constitution or by an Act of the Federal Legislature to be so charged.

81. (1) The Money Bills and the Budget should originate only in the House of the People. After the House of the People has disposed of these measures, the same should be placed before the House of Units for disposal. Procedure relating to Money Bills and Budget.

(2) If a Money Bill has been passed by both the Houses, it should be placed before the Head of the State for his assent thereto.

(3) If the Budget is passed by both the Houses, it would be deemed to have been duly passed.

(4) In the event of difference of opinion between the two Houses of the Federal Legislature with regard to any Money Bill or Budget or any provision thereof, the Head of the State would summon a joint session of the two Houses of the Legislature and refer the matter to the joint session. The measure would be deemed to have been passed if the majority of the Members in the joint session of the two Houses vote for it, provided the majority includes 30 per cent. of the Members present and voting for the measure from each of the Zones.

82. (1) So much of the estimates of expenditure as relates to expenditure charged upon the revenues of the Federation should not be submitted to the vote of the Federal Legislature, but nothing in this paragraph should be construed as preventing the discussion in the Federal Legislature of any of those estimates. Procedure relating to estimates.

(2) So much of the said estimates as relates to other expenditure should be submitted, in the form of demands for grants, to the Federal Legislature which should 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.

(3) When a question arises whether an item of expenditure is votable or non-votable, the decision thereon by the person presiding over the House at the time should be final.

Money Bills. 83. (1) A Money Bill means a Bill or an amendment which makes a provision only—

(a) for imposing, abolishing, altering or regulating any tax; or

(b) for regulating the borrowing of money or the giving of any guarantee by the Federal Government, or for amending the law with respect to any financial obligations undertaken or to be undertaken by the Federal Government; or

(c) for declaring any expenditure to be expenditure charged on the revenues of the Federation, or for increasing the amount of any such expenditure.

Such a Bill or amendment should not be introduced or moved except on the recommendation of the Head of the State.

(2) A Bill or amendment should 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 should not be passed by the Federal Legislature unless the Head of the State has recommended to the Federal Legislature the consideration of the Bill.

Supplementary Statement of Expenditure.

84. If in respect of any financial year further expenditure from the revenues of the Federation becomes necessary over and above the expenditure theretofore authorised for that year, the Head of the State should cause to be laid before the Federal Legislature a Supplementary Statement showing the estimated amount of that expenditure and the provisions of paragraphs 80 to 82 should 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.

Authentication of the Schedule of Expenditure.

85. The Head of the State should authenticate the Schedule of Expenditure.

Conduct of business

Rules of Procedure.

86. Each House of the Federal Legislature may make rules for regulating, subject to the provisions of the Constitution, its procedure and the conduct of its business, and until rules are so made the rules of procedure and Standing Orders in force

immediately before the commencement of the Constitution with respect to the Constituent Assembly of Pakistan should have effect subject to such modifications and adaptations as may be made therein by the Head of the State.

87. (1) The validity of any proceedings in either House of the Federal Legislature should not be called in question on the ground of any alleged irregularity of procedure.

Courts not to enquire into the proceedings of the Legislature.

(2) No officer or member of either House of the Federal Legislature in whom powers are vested by or under the Constitution for regulating procedure or the conduct of business or for maintaining order in the House should be subject to the jurisdiction of any court in respect of the exercise by him of those powers.

PART IV

The Units

CHAPTER I—THE EXECUTIVE

The Head of the Unit

88. There should be a Head of the Unit for each Unit.

Heads of the Units.

89. (1) The executive power of a Unit should vest in the Head of the Unit to be exercised by him in accordance with the Constitution and law.

Executive power of the Unit.

(2) Except in cases where it is provided that the Head of the Unit should act in his discretion, the Head of the Unit when he is to act under the Constitution should act on the advice of his Minister or Ministers.

(3) In so far as the Head of the Unit is required to act in his discretion he should 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 Head of the State. But the validity of anything done by the Head of a Unit should not be called in question on the ground that it was done otherwise than in accordance with the provisions of this paragraph.

90. The Head of a Unit should be appointed by the Head of the State. He must be a citizen of Pakistan.

of Appointment of the Head of the Unit

91. The Head of a Unit should hold office during the pleasure of the Head of the State. The term of office of the Head of a Unit should not exceed five years at a time.

Term of office of the Head of the Unit.

92. Suitable provision should be made by Act of the Federal Legislature for fixing the pay and allowances of the Head of a Unit and until provision in that behalf is so made, he should be entitled to such pay, allowances and privileges as were payable to the Governor of the Province concerned immediately before the commencement of the Constitution :

Salary and allowances of the Head of the Unit.

Provided that these should not be varied to the disadvantage of an incumbent during his term of office.

Oath of the Head of the Unit if he is a Muslim. 93. The Head of the Unit, if a Muslim, should be required to take the following oath:—

“I,....., do swear in the name of Allah that I will faithfully discharge the duties of the office of (the Head of the Unit) of (.....) according to law, that I will preserve, protect and defend the Constitution, that I will do right to all manner of people according to the laws and usages of Pakistan without fear or favour, affection or ill-will and that in my public and personal life I will endeavour to fulfil the obligations and duties enjoined by Islam.”

Oath of the Head of the Unit if he is a non-Muslim. 94. Suitable provision should be made for the form of oath to be taken by the Head of the Unit if he is a non-Muslim.

Cabinet

Cabinet to aid and advise the Head of a Unit. 95. (1) There should be a Cabinet, with the Chief Minister at the head, to aid and advise the Head of the Unit in the exercise of his functions except in those cases where he is empowered to act in his discretion.

(2) The question whether any, and if so what, advice was tendered by Ministers to the Head of the Unit should not be enquired into in any court of Law.

Other provisions as to Ministers. 96. (1) The Chief Minister should be appointed by the Head of the Unit and the other Ministers including Deputy Ministers and Parliamentary Secretaries should be appointed by the Head of the Unit on the advice of the Chief Minister.

(2) Deputy Ministers and Parliamentary Secretaries should not be members of the Cabinet.

(3) The members of the Cabinet, Deputy Ministers and Parliamentary Secretaries should be appointed from amongst the members of the Provincial Legislature.

Salary and allowances of Ministers, etc. 97. The salaries and allowances of Ministers, Deputy Ministers and Parliamentary Secretaries should be such as the Legislature of the Unit may from time to time by Act determine, and until the Legislature of the Unit so determines, should be the same as were payable immediately before the commencement of the Constitution:

Provided that these should not be varied to the disadvantage of an incumbent during his term of office.

Oath of Ministers if they are Muslims. 98. The Ministers for the Unit should be required to take oaths of allegiance, office and secrecy:

Provided that in the case of a Muslim Minister the oath of office should include an affirmation to the effect that both in his personal and public life, he will endeavour to fulfil the obligations and duties enjoined by Islam.

Oath of Ministers if they are non-Muslims. 99. Suitable provision should be made for the form of oath to be taken by a non-Muslim Minister.

Joint responsibility of Ministers to the Unit Legislature. 100. The Ministers in the Units should be collectively responsible to the Legislatures of the Units.

101. The action of the Head of the Unit in appointing or dismissing a Minister should not be called in question in any court of Law. Protection in respect of the act of choosing Ministers.

102. Subject to the provisions of the Constitution the executive authority of the Unit should extend to the matters with respect to which the Legislature of the Unit has power to make laws : Extent of the Executive authority of the Government of the Unit.

Provided that in any matter with respect to which the Legislature of a Unit and also the Federal Legislature have power to make laws, the executive power of the Unit should be subject to and limited by the executive power expressly conferred by the Constitution or by any law made by the Federal Legislature upon the Federal Government or authorities thereof.

Conduct of Government business

103. Provision should be made for framing rules by the Head of the Unit for the conduct of Government business in the Unit. Conduct of business of the Government of a Unit.

104. Provision should be made whereby the Head of the Unit should be kept informed of all the decisions of the Council of Ministers and proposals for legislation. The Head of the Unit should also be furnished with such information relating to the administration of the affairs of the Unit and proposals for legislation as he might call for. Duties of Chief Ministers as respects the furnishing of information to the Head of the Unit.

The Advocate-General of a Unit

105. (1) There should be an Advocate-General of the Unit to be appointed by the Head of the Unit. He should be a person qualified to become a Judge of the High Court. There should be no age limit. The Advocate-General of a Unit.

(2) The Advocate-General should hold office during the pleasure of the Head of the Unit and should receive such remuneration as may be determined by an Act of the Legislature of the Unit and until so determined, such remuneration as was payable immediately before the commencement of the Constitution : provided that it should not be varied to the disadvantage of an incumbent during his term of office.

CHAPTER II—THE LEGISLATURE OF A UNIT

106. (1) For each Unit there should be a unicameral Legislature composed of members chosen by direct election. Constitution of the Legislature of a Unit.

(2) The Federal Legislature may by law determine—

- (i) the total number of seats for the Legislature of a Unit ;
- (ii) the actual number of seats to be reserved for various communities on the basis of population as far as practicable ; and
- (iii) the number of seats to be reserved for women for a period of ten years from the commencement of the present Constitution.

Representation in the Unit Legislature.

107. (1) The members of the Legislature of a Unit should be elected from single-member territorial constituencies drawn in such a manner as to ensure, as far as possible, equal number of voters in all the constituencies of a particular community.

(2) For the purpose of ensuring uniform representation of all the areas of a Unit, the constituencies should be re-adjusted after every new census by such authority and in such manner as the Federal Legislature may by law determine.

Right of sending messages to the Legislature of the Unit.

108. The Head of the Unit may send messages to the Legislature of the Unit whether with respect to a Bill then pending in the Legislature or otherwise, and the Legislature should with all convenient dispatch consider any matter which they are required by the message to take into consideration.

Qualifications for membership of the Legislature of a Unit.

109. A person should not be qualified to be chosen to fill a seat in the Legislature of a Unit unless he—

- (i) is a citizen of Pakistan ;
- (ii) has attained the age of twenty-five years ;
- (iii) is able to read and write in some language ; and
- (iv) is qualified to vote in the choice of a member to fill the seat to which he seeks election or any other seat of a similar class in the Unit.

Disqualifications for membership of the Legislature of a Unit.

110. A person should be disqualified for being chosen as and for being a member of the Legislature of a Unit—

- (a) if he is of unsound mind and stands so declared by a competent court ;
- (b) if he is an undischarged insolvent ;
- (c) if he holds an office of profit under the Federal Government or under the Government of a Unit, or under any other Government, except an office declared by Act of the Legislature of the Unit not to disqualify its holder :

Provided that for this purpose a person should not be deemed to hold an office of profit under the Federal Government or under the Government of a Unit by reason only that he is a Minister, Minister of State, Deputy Minister or a Parliamentary Secretary for the Federal Government, or a Minister or a Deputy Minister or a Parliamentary Secretary for the Government of a Unit ;

- (d) if he has been found guilty by a competent court in Pakistan of any offence or illegal practice relating to elections which has been declared by any law or rules for the time being in force to be an offence or practice entailing disqualification for membership of the Legislature ;
- (e) if he has been convicted of any other offence involving moral turpitude before or after the commencement of the Constitution by a competent court in Pakistan and sentenced to life imprisonment or to imprisonment for not less than two years, unless a period of five years has elapsed since his release ;

- (f) if, having been nominated as a candidate for the Federal Legislature or the Legislature of a Unit 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 rules or orders for the time being in force or by a law of any legislative authority in Pakistan, unless five years have elapsed from the date by which the return ought to have been lodged or the Head of the Unit has removed the disqualification :

Provided that a disqualification under this sub-paragraph should 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 Head of the Unit may in any particular case allow ;

- (g) if he has been dismissed for misconduct from service, or from a post in connection with the affairs of the Federation or a Unit, unless a period of five years or such less period as the Head of the Unit may allow in any particular case, has elapsed since his dismissal ;
- (h) if he is not a citizen of Pakistan or having been a citizen of Pakistan has voluntarily acquired the citizenship of, or owes allegiance to, or is under any acknowledgment of allegiance or adherence to, a foreign State.

111. If any question arises as to whether a member of the Legislature of a Unit has become subject to any of the disqualifications mentioned in paragraph 110, the Chairman of the Legislature of the Unit should obtain the opinion of the Election Commission and should act in accordance with such opinion.

Decision on question as to the disqualification of the members.

112. If a person sits or votes as a member of the Legislature of a Unit before he has taken the prescribed oath, or when he knows that he is not qualified or is disqualified for membership thereof, or when he is prohibited from so doing by the provision of any law made by the Federal Legislature or the Legislature of the Unit, he should 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 Government of the Unit.

Penalty for sitting and voting by persons when not qualified or when disqualified.

113. (1) Every citizen of Pakistan who has attained the age of twenty-one years should be entitled to vote at elections to time being included :

Franchise

Provided that he should be entitled to vote only, in the constituency in the electoral roll of which his name is for the time being included.

(2) A person should not be qualified to be included in the electoral roll of a constituency unless he has a place of residence in that constituency.

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 place in which he resides, if he is at liberty to return to the house at any time and has not abandoned his intention of return :

Provided that in the case of persons holding parliamentary offices such as Ministers, Ministers of State, Deputy Ministers, Parliamentary Secretaries for the Federal Government and Ministers, Deputy Ministers, and Parliamentary Secretaries for the Government of the Unit and Chairman and Deputy Chairman of the Houses of the Federal Legislature and the Legislature of the Unit or member of any Legislature the non-fulfilment of the condition relating to residence should not have a disqualifying effect :

Provided further that a person who holds a public office or is employed in connection with the affairs of a Unit or the Federation or is a Member of the Defence Services and who in the discharge of his official duty or on account of such employment or membership is absent from the place of ordinary residence, should be deemed to be resident in the constituency in which he would have been qualified to vote immediately before the commencement of his absence :

Provided further that where a person becomes qualified to be entered on the electoral roll of a constituency under the proviso immediately preceding, his wife should also be deemed to have become so qualified if she is otherwise qualified.

(3) No person should vote at a general election in more than one territorial constituency, and provision should be made for the purpose of preventing persons from being included in the electoral roll for more than one territorial constituency in a Unit.

(4) Even if the name of a person appears on the rolls of more than one constituency he should exercise his right of vote only in one constituency.

(5) If a person votes in more than one constituency in contravention of this paragraph, his vote in each of the constituencies should be void.

(6) Notwithstanding anything in the foregoing provisions separate electoral rolls should be maintained for Muslims as well as for every minority community for whom seats in a particular Unit have been reserved and no person who does not belong to the community for which the electoral roll purports to be should be included in that electoral roll.

Disqualifica-
tions for
franchise

114. No person should be included in the electoral roll for, or vote at any election in, any constituency—

- (a) if he is of unsound mind and stands so declared by a competent court ;
- (b) if he is an undischarged insolvent ;
- (c) if he has been found guilty by a competent court in Pakistan of any offence or illegal practice relating to elections which has been declared by any law or rules for the time being in force to be an offence or practice entailing disfranchisement ;
- (d) if he has been convicted of any other offence involving moral turpitude before or after the commencement of the Constitution by a competent court in Pakistan and sentenced to life imprisonment or to imprisonment for not less than two years, unless a period of five years has elapsed since his release.

115. The life of the Legislature of a Unit should be five years unless sooner dissolved. Life of the Legislature of a Unit.
116. Provision should be made for holding general or bye-election as and when such election falls or becomes due as early as possible but in no case there should be a delay for more than six months. Time limit for holding general or bye-election.
117. Provision should be made that a person should vacate his seat if he absents himself from the Legislature for sixty consecutive sitting days without leave of the House. Absence without leave.
118. (1) The Legislature of a Unit should be summoned by the Head of the Unit. Summoning of the Legislature of a Unit.
- (2) Not less than two sessions should be held every year, and not more than six months should elapse between the last day of one session and the first day of the next session.
- (3) The Legislature of the Unit should be summoned within two months from the date of appointment of the Chief Minister of the Unit.
119. The Legislature of a Unit should be prorogued by an order of the Head of the Unit. Prorogation of the Legislature of a Unit.
120. (1) Authority to dissolve the Legislature of a Unit should vest in the Head of the Unit. Dissolution of the Legislature of a Unit.
- (2) No dissolution should take place on the advice of the caretaker ministry which functions between the date of the dissolution of the Legislature of a Unit and the formation of a new Ministry after fresh elections.
- (3) If a contingency arises wherein no such ministry as can command the confidence of the Legislature of a Unit can be formed, the Head of the Unit should be authorised to dissolve the Legislature of the Unit in his discretion and hold fresh elections.
121. The Advocate-General of the Unit should have the right to address the Legislature of the Unit but should have no right to vote. Right of Ministers and the Advocate-General as respects the Legislature of a Unit.
122. (1) The Legislature of a Unit should have a Chairman and a Deputy Chairman. The Chairman and Deputy Chairman of the Legislature of a Unit.
- (2) Provision should be made regarding the election and removal of the Chairman and the Deputy Chairman on the following lines :—
- (a) The Legislature of each Unit should, as soon as may be, choose two members of the Legislature of the Unit to be, respectively, Chairman and Deputy Chairman thereof and, so often as the office of the Chairman or Deputy Chairman becomes vacant, the Legislature

of the Unit should choose another member to be Chairman or Deputy Chairman, as the case may be.

- (b) A member holding office as Chairman or Deputy Chairman of the Legislature of a Unit should vacate his office if he ceases to be a member of the Legislature of the Unit, and may at any time resign his office by writing under his hand addressed to the Head of the Unit and may be removed from his office by a resolution of the Legislature of the Unit passed by a majority of all the then members of the Legislature of the Unit, but no resolution for the purpose of this sub-paragraph should be moved unless at least fourteen days' notice has been given of the intention to move the resolution :

Provided that whenever the Legislature of a Unit is dissolved the Speaker shall not vacate his office until immediately before the first meeting of the Assembly after dissolution.

- (c) While the office of the Chairman is vacant, the duties of the office should be performed by the Deputy Chairman, or if the office of the Deputy Chairman is also vacant, by such member of the Legislature of the Unit as the Head of the Unit may appoint for the purpose. During the absence of the Chairman from any sitting of the Legislature of the Unit, the Deputy Chairman or, if he is also absent, such person as may be determined by the Rules of Procedure of the Legislature of the Unit, or if no such person also is present, such other person as may be determined by the Legislature of the Unit, should act as Chairman.
- (d) While acting as Chairman of the Legislature of the Unit, the Deputy Chairman should exercise similar powers as the presiding officer. There should also be provision for the delegation of powers relating to admissibility of questions, resolutions, bills and motions by the Chairman to the Deputy Chairman or to the person who acts as Chairman of the meeting in the absence of the Chairman and the Deputy Chairman.

Salary and allowances of the Chairman and the Deputy Chairman

123. There should be paid to the Chairman and the Deputy Chairman of the Legislature of a Unit such salaries and allowances as may be determined by Act of the Legislature of the Unit, and until provision in that behalf is so made, such salaries and allowances as were payable immediately before the commencement of the Constitution to the Speaker and the Deputy Speaker of the Provincial Legislature: provided that these should not be varied to the disadvantage of an incumbent during his term of office.

The Chairman and the Deputy Chairman not to preside when a resolution for his removal is under discussion.

124. At any sitting of the House of the Legislature of a Unit, while a resolution for the removal of the Chairman or of the Deputy Chairman from his office is under discussion, the Chairman or the Deputy Chairman, as the case may be, should not preside though he is present; but he should have the right to speak in or otherwise take part in the proceedings of the House.

125. (1) The Secretariat of the Legislature of a Unit should be independent and should be under the Legislature of the Unit. The Secretariat of the Legislature of a Unit.

(2) Recruitment and conditions of service, including punishment of and disciplinary action against the officers and staff of the Secretariat of the Legislature of a Unit, should be at par with the corresponding services of the Government of the Unit, but the recommendations of the Public Service Commission instead of going to the Government of the Unit should go to the Chairman of the Legislature of the Unit.

126. (1) The Finance Committee of the Legislature of a Unit should scrutinise all the financial proposals relating to the expenditure of the Legislature of the Unit and thereafter the Budget should be presented to the Legislature of the Unit. The Finance Committee.

(2) The Chairman of the Legislature of a Unit should be the Chairman and the Finance Minister of the Unit, an *ex-officio* member of the Finance Committee. The Finance Committee of the Legislature of the Unit should exercise powers of control and direction in matters relating to the finances of the Legislature of the Unit similar to those as were exercisable by the Standing Finance Committee of the Legislature of a Province in relation to the affairs of the Government immediately before the commencement of the Constitution.

(3) The Legislature of the Unit should have power to make rules of procedure for the timely completion of business relating to its Budget.

(4) The Finance Committee should frame rules to secure to itself closer contact and effective voice in regulating the finances of the Legislature of the Unit.

127. (1) A member of the Legislature of a Unit should be required to take an oath of allegiance to Pakistan. No member should take his seat in the Legislature until he has taken the prescribed oath : Oath of Members: failure or refusal to take oath.

Provided that in the case of a Muslim member, the oath should include an affirmation to the effect that both in his personal and public life, he will endeavour to fulfil the obligations enjoined by Islam.

(2) Where a member fails to take an oath of allegiance within a period not exceeding six months from the date of the first meeting of the Legislature or refuses to take the oath, his seat should be declared vacant, provided that before the expiry of the said period the Chairman may, on good cause being shown, extend the period.

128. (1) Except in cases in which a specific majority is provided, all decisions in the Legislature of a Unit should be taken in accordance with the rules framed by it. The presiding officer of the Legislature of the Unit should not exercise any vote excepting a casting vote in case of a tie. Voting and quorum in the Legislature of a Unit.

(2) The Legislature of the Unit should have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in the Legislature of the Unit should 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) The quorum for a meeting of the Legislature of the Unit should be one-seventh of the total number of the members of the Legislature of the Unit.

Privileges of the Legislature of a Unit and of the Members and Committees thereof. 129. Provision should be made empowering the Legislature of a Unit to legislate in regard to the privileges of the Legislature and its members. Pending such legislation the present position should continue.

Salaries and allowances of Members. 130. Members of the Legislature of the Unit should be entitled to receive such salaries and allowances as may from time to time be determined by Act of the Legislature of the Unit, and until provision in that behalf is so made, such salaries and allowances as were payable immediately before the commencement of the Constitution to the Members of the Provincial Legislature: provided that these should not be varied to the disadvantage of the Members during their term of membership.

Assent to Bills.

131. When a Bill has been passed by the Legislature of a Unit, it should be presented to the Head of the Unit and the Head of the Unit should declare, within ninety days, either that he assents to the Bill or that he withholds assent therefrom, or that he reserves the Bill for the consideration of the Head of the State :

Provided that the Head of the Unit may, as soon as possible, after the presentation to him of the Bill for assent, return the Bill, if it is not a Money Bill, to the Legislature of the Unit with a message requesting that the Legislature of the Unit should reconsider the Bill or any specified provisions thereof and, in particular, should consider the desirability of introducing any such amendments as he may recommend in his message and when a Bill is so returned, the Legislature of the Unit should reconsider the Bill accordingly, and if the Bill is passed again by the Legislature of the Unit with or without amendment and presented to the Head of the Unit for assent, the Head of the Unit should not withhold assent therefrom :

Provided further that the Head of the Unit should not assent to, but should reserve for the consideration of the Head of the State, any Bill which in the opinion of the Head of the Unit would, if it became law, so derogate from the powers of the High Court as to endanger the position which that Court is by the Constitution designed to fill.

Procedure in financial matters

Annual Financial Statement.

132. (1) The Head of the Unit should in respect of every financial year cause to be laid before the Legislature of the Unit a statement of estimated receipts and expenditure of the Unit for that year, in the Constitution referred to as the "Annual Financial Statement".

(2) The estimates of expenditure embodied in the annual financial statement should show separately—

(a) the sums required to meet expenditure described by the Constitution as expenditure charged upon the revenues of the Unit ; and

b) the sums required to meet other expenditure proposed to be made from the revenues of the Unit,

and should distinguish expenditure on revenue account from other expenditure.

(3) The following expenditure should be expenditure charged on the revenues of the Unit :—

- (a) the salary and allowances of the Head of the Unit and other expenditure relating to his office ;
- (b) debt charges for which the Unit 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) the salary and allowances payable to or in respect of the Judges of the High Court ;
- (d) any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal ;
- (e) any other expenditure declared by the Constitution or by an Act of the Legislature of the Unit to be so charged.

133. (1) So much of the estimates of expenditure as relates Procedure to expenditure charged upon the revenues of the Unit should relating to not be submitted to the vote of the Legislature of the Unit, but estimates. nothing in this paragraph should be construed as preventing the discussion in the Legislature of any of those estimates.

(2) So much of the said estimates as relates to other expenditure should be submitted, in the form of demands for grants, to the Legislature of the Unit which should 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.

(3) When a question arises whether an item of expenditure is votable or non-votable the decision thereon by the person presiding over the House at that time should be final.

134. The Head of the Unit should authenticate the Schedule of Expenditure. Authentica-
tion of the
Schedule of
Expenditure.

135. (1) A Money Bill means a Bill or an amendment which Money Bills, makes a provision only—

- (a) for imposing, abolishing, altering or regulating any tax ; or
- (b) for regulating the borrowing of money or the giving of any guarantee by the Government of the Unit or for amending the law with respect to any financial obligations undertaken or to be undertaken by the Government of the Unit ; or
- (c) for declaring any expenditure to be expenditure charged on the revenues of the Unit, or for increasing the amount of any such expenditure.

Such a Bill or amendment should not be introduced or moved except on the recommendation of the Head of the Unit.

(2) A Bill or amendment should 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 Unit should not be passed by the Legislature of the Unit unless the Head of the Unit has recommended to the Legislature of the Unit the consideration of the Bill.

Supplementary Statement of Expenditure.

136. If in respect of any financial year further expenditure from the revenues of the Unit becomes necessary over and above the expenditure theretofore authorised for that year, the Head of the Unit should cause to be laid before the Legislature of the Unit a Supplementary Statement showing the estimated amount of that expenditure and the provisions of paragraphs 123 and 124 should 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.

Conduct of business

Rules of Procedure.

137. (1) The Legislature of a Unit may make rules for regulating, subject to the provisions of the Constitution, its procedure and the conduct of its business and until rules are so framed, the rules of procedure and Standing Orders in force immediately before the commencement of the Constitution with respect to the Provincial Legislature should have effect, subject to such modifications and adaptations as may be made therein by the Head of the Unit.

(2) If after the commencement of the Constitution a Legislature is provided for a Unit which had no Legislature at the time of such commencement, the Rules of Procedure until these are framed by the Legislature of that Unit should be framed by the Head of the State.

Courts not to enquire into the proceedings of the Legislature.

138. (1) The validity of any proceedings in the Legislature of the Unit should not be called in question on the ground of any alleged irregularity of procedure.

(2) No officer or other member of the Legislature of the Unit in whom powers are vested by or under the Constitution for regulating procedure or the conduct of business or for maintaining order in the Legislature should be subject to the jurisdiction of any court in respect of the exercise by him of those powers.

Ordinances by the Head of the Unit.

139. The Head of the Unit should have power to promulgate ordinances during the period when the Legislature of the Unit is not sitting. An ordinance promulgated under this paragraph should be laid before the Legislature of the Unit at its next meeting and should cease to operate at the expiration of six weeks from the re-assembly of the Legislature of the Unit.

PART V

**Excluded and Partially Excluded Areas, States of Bahawalpur
and Khairpur, Baluchistan and Special Areas**

CHAPTER I—EXCLUDED AND PARTIALLY EXCLUDED AREAS

140. (1) The expressions “excluded area” and “partially excluded area” mean, respectively, such areas as were excluded or partially excluded areas immediately before the commencement of the Constitution, or such areas as may henceforth be declared by the Head of the State to be excluded or partially excluded areas. Excluded
and Partially
Excluded
Areas.

(2) The executive authority of a Unit extends to excluded and partially excluded areas therein, but notwithstanding anything in the Constitution, no Act of the Federal Legislature or the Legislature of the Unit should apply to an excluded area or a partially excluded area, unless the Head of the Unit by public notification so directs, and the Head of the Unit, in giving such a direction with respect to any Act, may direct that the Act should in its application to the area, or to any specified part thereof, have effect subject to such exceptions or modifications as he thinks fit.

(3) The Head of the Unit may make regulations for the peace and good government of any area in a Unit which is for the time being an excluded area, or a partially excluded area, and any regulation so made may repeal or amend any Act of the Federal Legislature or of the Legislature of the Unit or any existing law, which is for the time being applicable to the area in question. Regulations made under this sub-paragraph should be submitted forthwith to the Head of the State, and until assented to by him, should have no effect.

(4) The Head of the State may at any time by an order—

- (a) direct that the whole or any specific part of any excluded area or a partially excluded area should cease to be an excluded area or a partially excluded area, as the case may be, or part of such an area, or
- (b) alter, but only by way of rectification of boundaries, any excluded or partially excluded area; and any such order may contain any such incidental and consequential provisions as appear to the Head of the State to be necessary and proper.

CHAPTER II—STATES OF BAHAWALPUR AND KHAIRPUR

141. (a) The States of Bahawalpur and Khairpur shall have the same status as may be assigned to the Provinces with the modification that instead of a Governor, the constitutional head of these States shall be its ruler. States of
Bahawalpur
and
Khairpur.

(b) The merger of these States in the Provinces shall be subject to the provisions of paragraph 13 of this Report.

CHAPTER III—BALUCHISTAN

Baluchistan. 142. Baluchistan shall be given the status of a Governor's Province like other Provinces :

Provided that the Governor shall have special responsibility in respect of the prevention of any threat to the peace and tranquillity of the Province or any part thereof for a period of five years from the Constitution Day :

Provided further that it shall be lawful for the Federal Legislature to extend, by a resolution, such period of five years by a further period of five years.

CHAPTER IV—SPECIAL AREAS

Special Areas.

143. (a) The four acceding States of North-West Frontier Province, namely, Chitral, Swat, Dir and Amb and the Tribal Areas of the North-West Frontier Province shall constitute "Special Areas of the North-West Frontier Province."

(b) The four acceding States of Baluchistan, namely, Kalat, Makran, Lasbela and Kharan comprising the Baluchistan States Union shall constitute "Special Areas of the Province of Baluchistan."

Extent of Provincial executive authority to Special Areas.

144. (a) The executive authority of the Provinces of North-West Frontier Province and of Baluchistan extend to their respective Special Areas therein, but notwithstanding anything in the Constitution, no Act of the Federal Legislature or of the Legislative Assembly shall apply to Special Areas or any part thereof unless the Governor of the Province concerned with the previous approval of the President, by public notification, so directs and the said Governor in giving such a direction with respect of any Act, may direct that the Act should in its application to the areas or any specified part thereof have effect subject to such exceptions or modifications as he thinks fit.

(b) The respective Governors with the previous approval of the President may make regulations for the peace and good government of the Special Areas or any part thereof and any regulation so made may repeal or amend any Act of Parliament or of the respective Legislative Assemblies or any existing law which is for the time being applicable to the areas in question.

(c) The President may, from time to time, give such directions to the respective Governors as he may deem necessary, and the respective Governors shall, in the discharge of their functions under this paragraph, comply with such directions.

Cessation of Special Areas or part thereof.

145. The President may at any time by order—

(a) direct that the whole or any specified part of the Special Areas should cease to be Special Areas, or

(b) alter the boundaries of Special Areas, or any part thereof and any such order may contain such consequential and incidental provisions as the President may consider proper :

Provided that, before making any order under this subparagraph, the President shall ascertain, in such manner as he considers appropriate the views of the people of the Special Areas concerned :

Provided further that in the case of the Special Areas of Baluchistan if the Legislative Assembly of Baluchistan States Union or the representatives in such Legislative Assembly of a State forming part of that Union demand by a majority of votes that any areas of the Union or of the States as the case may be should cease to be part of the Special Area, the President shall take steps to give effect to that decision within six months.

146. Provision should be made in the Constitution to ensure that adequate finances are made available to the respective Provincial Governments to enable them to discharge the additional responsibilities which these recommendations will impose upon them. Financial aid to Provinces having Special Areas.

PART VI

Relations between the Federation and the Units

147. (1) There should be three lists of subjects for the purpose of legislation— Subject-matter of laws to be made by the Federal Legislature and by the Legislature of a Unit.

- (a) exclusively by the Federal Legislature ;
- (b) exclusively by the Legislature of a Unit ; and
- (c) both by the Federal Legislature and the Legislature of a Unit.

(2) These three lists to be respectively called the Federal, the Unit, and the Concurrent Lists are in Schedule I of these Recommendations.

(3) The President in consultation with the Provincial Governments may direct that any specified subjects not mentioned in any of the foregoing Lists be classed as being a part of either the Federal, Unit or the Concurrent List. Upon an order passed by the President in this behalf, the List would stand amended accordingly.

148. Provisions should be made for planning and co-ordination by the Federal Government in respect of matters in the Unit and the Concurrent Lists, and the Federal Legislature should be competent to legislate in such cases, with the prior consultation of the governments of the Units concerned. Planning and co-ordination in respect of matters in the Unit and the Concurrent Lists.

149. If it appears to the Legislature or Legislatures of one or more Units to be desirable that any of the matters with respect to which the Federal Legislature has no power to make laws for the Unit or Units, except legislation in respect of any matter in the Unit List in case of proclamation of emergency, should be regulated in such Unit or Units by the Federal Legislature by law, and a resolution or resolutions to that effect is or are passed by the Legislature of the Unit or of each of such Units it should be lawful for the Federal Legislature to pass an Act for regulating that matter accordingly, and any Act so passed should apply to such Unit or Units, and to any other Unit by which it is adopted afterwards by resolution passed in that behalf by the Legislature of that Unit. Power of the Federal Legislature to legislate for one or more Units by consent and adoption of such Legislation by any other Unit.

Repeal of the laws made by the Federal Legislature. 150. Any Act passed under the preceding paragraph by the Federal Legislature may be amended or repealed by an Act of the Federal Legislature passed in like manner but may, as respects any Unit to which it applies, be amended or repealed also by an Act of the Legislature of that Unit.

Provisions as to legislation for giving effect to International Agreements. 151. Notwithstanding anything in the foregoing provisions of this part, the Federal Legislature has power to make law for the whole or any part of Pakistan for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body.

Inconsistency between laws made by the Federal Legislature and laws made by the Legislatures of the Units 152. Provision should be made for the Federal Laws to prevail over the Unit laws in case of a conflict.

Rules relating to previous sanction of Bills by the Head of the State or the Head of the Unit. 153. (1) Where under any provision of the Constitution the previous sanction or recommendation of the Head of the State or the Head of the Unit is required to the introduction or passing of a Bill or the moving of an amendment the giving of the sanction or the recommendation should not be construed as precluding him from exercising subsequently in regard to the Bill in question any powers conferred upon him by the Constitution with respect to the withholding of assent to, or reservation of, Bills.

(2) No Act of the Federal Legislature or the Legislature of a Unit and no provision in any such Act, should 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 Head of the Unit, either by the Head of the Unit or by the Head of the State ;
- (b) where the previous sanction or recommendation required was that of the Head of the State, by the Head of the State.

Enforcement of Federal Laws in the acceding States. 154. Provision should be made for the enforcement of the Federal laws in the acceding States in accordance with the agreements.

Delegation of powers. 155. (1) Provision should be made authorising the Federal Government to delegate executive powers to a Unit or any officer thereof, with the consent of that Unit.

(2) When the Federal Legislature makes a law in respect of a matter falling in the Unit List at the request of a Unit or Units executive authority of the Federal Government should extend to the issuing of executive instructions to the Unit or Units concerned in respect of that matter.

(3) Notwithstanding anything in the Constitution the Head of the State may, with the consent of the Government of a Unit or the Ruler of 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.

(4) An Act of the Federal Legislature may, notwithstanding that it relates to a matter with respect to which the Legislature of a Unit has no power to make laws; confer powers and impose duties, or authorise the conferring of powers and the imposition of duties, upon a Unit or officers and authorities thereof.

(5) An Act of the Federal Legislature which extends to a Federated State may confer powers and impose duties 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.

(6) Where, by virtue of the aforesaid provisions, powers and duties have been conferred or imposed upon a Unit or a Federated State or officers or authorities thereof, there should be paid by the Federation to the Unit or the State such sum as may be agreed or, in default of agreement, as may be determined in accordance with the procedure prescribed for the settlement of disputes between the Federation and the Units in paragraph 157.

156. (1) The executive power of every Unit should be so exercised as to ensure compliance with the laws made by the Federal Legislature and any existing laws which apply to that Unit and the executive power of the Federation should extend to the giving of such directions to a Unit as may appear to the Federal Government to be necessary for that purpose.

Obligation of Units and Federation and control of Federation over Units in certain cases.

(2) The executive power of every Unit should be so exercised as not to impede or prejudice the exercise of the executive power of the Federation, and the executive power of the Federation should extend to the giving of such direction to a Unit as may appear to the Federal Government to be necessary for that purpose.

(3) The executive power of the Federation should also extend to the giving of directions to a Unit as to the construction and maintenance of means of communications declared in the direction to be of national or military importance :

Provided that nothing in this sub-paragraph should be taken as restricting the power of the Federal Legislature to declare highways or waterways to be national highways or national waterways or the power of the Federation with respect to the highways or waterways so declared, or the powers of the Federation to construct and maintain means of communication as part of its functions with respect to naval, military and air force works.

(4) The executive power of the Federation should extend to the giving of directions to a Unit as to the measures to be taken for the protection of railways within the Unit.

(5) Where, in carrying out any direction given to a Unit under sub-paragraph (3) as to the construction or maintenance of any means of communication or under sub-paragraph (4) as to the measures to be taken for the protection of any railway, costs have been incurred in excess of those which would have been incurred in the discharge of the normal duties of the Unit if such direction had not been given, there should be paid by the Federal Government to the Unit such sum as may be agreed, or in default of agreement, as may be determined in accordance with the procedure prescribed for the settlement of disputes between the Federation and the Units in paragraph 157.

Disputes other than disputes relating to interpretations of Constitution.

157. All disputes between the Federation and the Units or between the Units *inter se*, other than those specified in paragraph 188, including disputes relating to supply of water or natural sources of supply of water and disputes for contributions towards the expenditure incurred in connection with the needs of the Federation and the Units or more than one Unit, should be settled by a tribunal to be set up by the Chief Justice of Pakistan at the request of any party. The report of the tribunal should be submitted to the Chief Justice of Pakistan, who should see that the purpose for which the tribunal was appointed has been carried out. The report should then be submitted to the Head of the State for decision.

Inter-Unit Councils.

158. The Head of the State should have the authority to set up one or more Councils for dealing with matters of common interest between more than one Unit or the Units and the Federation, with the consent of the parties concerned.

Borrowing by the Federal Government.

159. 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.

Acquisition of land for Federal purposes.

160. The Federation may, if it deems necessary to acquire any land situate in a Unit for any Federal purpose, require the Unit to acquire land on behalf and at the expense of the Federation; or if the land belongs to the Unit to transfer it to the Federation on such terms as may be agreed, or, in default of agreement as may be determined in accordance with the procedure prescribed for the settlement of disputes between the Federation and the Units in paragraph 157.

PART VII

Financial Provisions

Provisions as to the custody of public moneys.

161. (1) The custody of the revenues of the Federation, the payment of money into such revenues, the withdrawal of moneys therefrom, the custody of public moneys other than those relating to the revenues of the Federation received by or on behalf of the Federal Government, their payment into the public account of the Federation and the withdrawal of moneys from such account and all other matters connected with or

ancillary to matters aforesaid should be regulated by Act of the Federal Legislature and until provision in that behalf is so made should be regulated by rules made by the Head of the State.

(2) The custody of the revenues of a Unit, the payment of moneys into such revenues, the withdrawal of moneys therefrom, the custody of public moneys other than those relating to the revenues of the Unit received by or on behalf of the Government of the Unit, their payment into public account of the Unit and the withdrawal of moneys from such account and other matters connected with or ancillary to matters aforesaid should be regulated by law made by the Legislature of the Unit, and until provision in that behalf is so made should be regulated by the rules made by the Head of the Unit.

162. No Bill or amendment which affects the coinage or currency of the Federation or the constitution or functions of the State Bank of Pakistan should be introduced or moved in the Federal Legislature without the previous sanction of the Head of the State.

Sanction of the Head of the State with respect to State Bank, currency and coinage.

163. Property vested in the Federal Government should, save in so far as any Federal law may otherwise provide, be exempt from all taxes imposed by the Units or Federated States :

Exemption of certain public property from taxes.

Provided that, until any Federal law otherwise provides, any such property which before the commencement of the Constitution was liable to such tax should continue to be so liable.

164. Provision should be made that electricity consumed by the Federal Government or the Railways should be exempt from all taxes imposed by the Units or Federated States.

Exemption of taxes on electricity.

165. The Government of a Unit and the Government of a Federated State should not be liable to Federal taxation in respect of property situated in Pakistan or income accruing, arising or received in Pakistan : provided that such exemption should not extend to a trade or business carried on outside the Unit or the Federated State as the case may be.

Exemption of Governments of Units and Federated States in respect of Federal taxation.

PART VIII

Audit and Accounts and appointment of Auditor-General

166. (1) There should be an Auditor-General of Pakistan who should be appointed by the Head of the State and should only be removed from office in like manner and on the like grounds as a Judge of the Supreme Court.

Auditor-General of Pakistan.

(2) Every person to be appointed as Auditor-General of Pakistan should, before he enters upon his office, make and subscribe before the Head of the State or some person appointed by him in that behalf, an oath or affirmation in the prescribed manner.

(3) The salary and other conditions of service of the Auditor-General should be such as may be determined by the Head of the State :

Provided that neither the salary of the Auditor-General nor his rights in respect of leave of absence, pension or age of retirement should be varied to his disadvantage during his term of office.

(4) The Auditor-General should not be eligible for further office either under the Federal Government or under the Government of a Unit after he has ceased to hold office.

(5) The salary, allowances and pension payable to or in respect of the Auditor-General should be charged upon the revenues of the Federation, and the salaries, allowances, pensions and other administration charges payable to or in respect of the members of his staff should be payable out of the revenues of the Federation.

Duties and powers of the Auditor-General.

167. The Auditor-General should perform such duties and exercise such powers in relation to the accounts of the Federal Government and the Governments of the Units and of any other authority or body, as may be prescribed by or under any law made by the Federal Legislature, and until provision in that behalf is so made should perform such duties and exercise such powers as were conferred on or exercisable by the Auditor-General of Pakistan immediately before the commencement of the Constitution in relation to the accounts of the Dominion of Pakistan or of the Provinces, respectively :

Provided that no Bill or amendment for the purpose should be introduced or moved without the previous sanction of the Head of the State.

Auditor-in-Chief of a Unit.

168. (1) The Auditor-in-Chief of a Unit should be appointed and removed in the same manner and by the same authority as the Auditor-General of Pakistan.

(2) After the date of the enforcement of the Constitution if the Legislature of a Unit passes an Act charging the salary of the Auditor-General for the Unit on the revenues of the Unit, an Auditor-in-Chief of the Unit may be appointed by the Head of the Unit to perform the same duties and to exercise the same powers in relation to the audit of the accounts of the Unit as would have been performed, and exercised by the Auditor-General of Pakistan, if an Auditor-in-Chief of the Unit had not been appointed.

(3) The provisions relating to the Auditor-General of Pakistan should apply to the Auditor-in-Chief of a Unit and his staff, subject to the following modifications :

- (a) a person who is, or has been, Auditor-in-Chief of a Unit should be eligible for appointment as Auditor-General of Pakistan ;
- (b) in paragraph 167 relating to the Auditor-General of Pakistan for the reference to the Federal Legislature there should be substituted a reference to the Legislature of the Unit ;

- (c) in sub-paragraph (3) of paragraph 166 for the reference to the Head of the State there should be substituted a reference to the Head of the Unit ; and
- (d) in sub-paragraph (5) of paragraph 166 relating to the Auditor-General of Pakistan for the reference to the revenues of the Federation there should be substituted a reference to the revenues of the Unit :

Provided that nothing in the preceding part of this paragraph should derogate from the power of the Auditor-General of Pakistan to give such directions in respect of the accounts of the Units as are mentioned in the succeeding paragraphs of this chapter.

169. The accounts of the Federation should be kept in such form as the Auditor-General of Pakistan may, with the approval of the Head of the State, prescribe and, in so far as the Auditor-General of Pakistan may, with the like approval give any directions with regard to the methods or principles in accordance with which any accounts of Units ought to be kept, it should be the duty of every Government of the Unit to cause accounts to be kept accordingly.

Power of Auditor-General of Pakistan to give directions with respect to accounts.

170. The reports of the Auditor-General of Pakistan relating to the accounts of the Federation should be submitted to the Head of the State, who should cause them to be laid before the Federal Legislature, and the reports of the Auditor-General of Pakistan or of the Auditor-in-Chief of the Unit, as the case may be, relating to the accounts of a Unit should be submitted to the Head of the Unit, who should cause them to be laid before the Legislature of the Unit concerned.

Audit reports.

PART IX

Property, Contracts, Liabilities and Suits

171. Provision should be made that where a property accrues to the State by escheat or lapse, or as *bona vacantia* for want of rightful owner, the property should vest in the Government of the Unit if it is situate in that Unit or in the Federal Government in other cases, including the cases where the said property was already in the possession and control of the Federal Government.

Property accruing by escheat or lapse or as *bona vacantia*.

172. (1) Provision should be made empowering the Federal Government or the Government of a Unit to grant, sell, dispose of or mortgage any property vested in the Government, and to purchase or acquire property, and to make contracts.

Power to acquire property and to make contracts.

(2) All property acquired for the purpose of the Federation or of a Unit should vest in the Federal Government or in the Government of the Unit, as the case may be.

173. The Federation may sue or be sued in the name of Pakistan and the Government of a Unit may sue or be sued in the name of the Unit.

Suits and proceedings.

Prohibition on certain restrictions on internal trade.

174. No Government or Legislature of a Unit should be empowered to impose any restriction on internal trade within Pakistan or to impose any discriminatory taxes, cess, toll, or dues.

PART X

The Judiciary

CHAPTER I—THE SUPREME COURT

Name of the Highest Court.

175. There should be a Supreme Court of Pakistan.

Constitution of the Court.

176. The Supreme Court should consist of a Chief Justice and not less than two and not more than six other Judges :

Provided that the Federal Legislature may by a resolution increase the number of Judges beyond six.

Appointment of Judges.

177. (1) The Chief Justice of the Supreme Court should be appointed by the Head of the State.

(2) The appointment of the Puisne Judges of the Supreme Court should be made by the Head of the State on the recommendation of the Chief Justice.

(3) Every person appointed to be a Judge of the Supreme Court should, before he enters upon his office, make or subscribe, before the Head of the State or some person appointed by him, an oath or affirmation in the prescribed form.

Qualifications of Judges.

178. A person should not be qualified for appointment as a Judge of the Supreme Court unless he is a citizen of Pakistan ; and

(a) has been for at least five years a Judge of a High Court, or

(b) is a barrister or an advocate of at least fifteen years' standing of one or more High Courts.

Salaried and allowances of Judges.

179. (1) The salary of the Chief Justice of the Supreme Court should be Rs. 5,000 and that of a Puisne Judge of that Court Rs. 4,000 per month.

(2) Every Judge of the Supreme Court should be provided with a rent-free residence and should be entitled to such privileges and allowances, including allowances for expenses in respect of equipment and travelling upon first appointment, and to such rights in respect of leave of absence and pension, as may from time to time be determined by the Head of the State, and until so determined, such privileges and allowances and rights as were prevailing before the commencement of the Constitution in relation to Judges of the Federal Court :

Provided that neither the salary of a Judge nor his right in respect of leave of absence or pension should be varied to his disadvantage during his term of office.

Resignation of Judges.

180. A Judge of the Supreme Court may, by writing under his hand, addressed to the Head of the State, resign his office.

Age of superannuation.

181. The Judges of the Supreme Court should retire from their office at the age of sixty-five.

182. (1) A Judge of the Supreme Court should not be removed from his office except on the ground of misbehaviour or infirmity of mind or body. Removal of Judges.

(2) In such a case the Head of the State should move the Supreme Court for the appointment of a Bench of three Judges of that Court to enquire into the alleged misbehaviour or infirmity of mind or body of the Judge concerned. In case the Chief Justice himself is involved, the senior-most Judge should perform the duties of the Chief Justice in that behalf. The findings of the Bench should be submitted to the Head of the State by the Chief Justice or the senior-most Judge of the Supreme Court, as the case may be, and the Head of the State should pass appropriate orders in conformity therewith.

183. No person who has held office as a permanent Judge of the Supreme Court shall plead or act in any court or before any authority within the territory of Pakistan. Disabilities of Judges.

184. (1) If the office of the Chief Justice of Pakistan comes vacant, or if the Chief Justice is, by reason of absence or for any other reason, unable to perform the duties of his office, those duties should, until some person permanently appointed 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 Head of the State may appoint as acting Chief Justice. Temporary appointment of Chief Justice and Puisne Judges.

(2) In any of the following circumstances—

- (i) when the office of any Judge of the Supreme Court other than that of the Chief Justice has become vacant and no permanent appointment has been made; or
- (ii) where any such Judge is appointed to act temporarily as Chief Justice of Pakistan; or
- (iii) where any such Judge is unable to perform his duties on account of being absent through grant of leave or for any other reason;

the Head of the State, if satisfied after considering a report from the Chief Justice of Pakistan, that unless the vacancy is filled, the work of the Supreme Court cannot proceed satisfactorily, may appoint a Judge of a High Court who is duly qualified for appointment as a Judge of the Supreme Court to act temporarily as a Judge of that Court, and the persons so appointed should be deemed to be a Judge of the Supreme Court until the Head of the State thinks fit to revoke the appointment.

185. If by reason of any temporary increase in the business of the Supreme Court or by reason of arrears of work in the Court, it appears to the Head of the State that the number of the Judges of the Supreme Court should be for the time being increased, the Head of the State may, subject to the foregoing provisions with respect to the maximum number of Judges, appoint in the manner prescribed for the appointment of Judges in paragraph 177 a Judge of a High Court to be an Additional Judge of the Supreme Court for such period not exceeding two years as may specify. Appointment of Additional Judge.

Appointment
of *Ad hoc*
Judge.

186. If at any time there should not be a quorum of the Judges of the Supreme Court available to hold or continue any session of the Court, the Chief Justice of the Supreme Court may, after consultation with the Chief Justice of the High Court concerned, require in writing the attendance at the sittings of the Court, as an *ad hoc* judge, for such period as may be necessary, of a Judge of a High Court duly qualified for appointment as a Judge of the Supreme Court to be designated by the Chief Justice of the Supreme Court.

Seat of the
Supreme
Court.

187. The seat of the Supreme Court should be in Karachi, but it shall sit at Dacca at least once a year for such period as may be required to hear the cases of East Bengal, and it may sit at such other place or places as the Chief Justice of the Supreme Court may, with the approval of the Head of the State, from time to time, appoint.

Original
jurisdiction.

188. Subject to the provision of the Constitution the Supreme Court should, to the exclusion of any other court, have original jurisdiction in any dispute—

- (a) between the Federal Government and one or more Units ;
- (b) between the Federal Government and any Unit or Units on one side and one or more other Units on the other ; and
- (c) between two or more Units.

if and in so far as the dispute involves—

- (i) any question, whether of law or fact, on which the existence or extent of a legal right depends ; and
- (ii) any question involving the interpretation of the Constitution :

Provided that the said jurisdiction should not extend to—

- (i) a dispute to which a Unit is a party if the dispute arises out of any provision of a treaty, agreement, covenant, engagement, *sanad* or other similar instrument which was entered into or executed before the commencement of the Constitution and has, or has been, continued in operation after such commencement ;
- (ii) a dispute to which any Unit is a party, if the dispute arises out of any provision of a treaty, agreement, covenant, engagement, *sanad* or other similar instrument which provides that the said jurisdiction should not extend to such a dispute.

Explanation.—The word "Unit" has been used so as to include the Provinces and the acceding States as they exist at present.

Appellate
jurisdiction
in civil and
constitutional
matters.

189. (1) An appeal should lie to the Supreme Court from any judgment, decree or final order of a High Court in civil, criminal or other proceedings, if the High Court certifies that the case involves a substantial question of law as to the interpretation of the Constitution.

(2) Where the High Court has refused to grant a certificate, the Supreme Court may grant special leave to appeal after it is satisfied that the case involves a substantial question of law as to the interpretation of the Constitution.

(3) An appeal should lie to the Supreme Court from any judgment, decree or final order of a High Court in any other case, if the subject-matter of the dispute exceeds Rs. 20,000 in value or if the High Court certifies that the case is otherwise fit for appeal.

(4) No appeal should be permitted to the Supreme Court from the judgment of a single Judge of a High Court, unless the Federal Legislature otherwise provides.

(5) Appeals in civil cases should, in other respects, be subject to the limitations prescribed in the Code of Civil Procedure, 1908.

190. (1) An appeal should lie to the Supreme 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 the Constitution, or of the Government of India Act, 1935, or of an Order-in-Council made thereunder, or of the Indian Independence Act of 1947 or any Order made thereunder, or concerns 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 IV of the Government of India Act, 1935, in relation to the administration in that State of a law of the Federal Legislature. Appeals from Federated States.

(2) An appeal under this paragraph should be by way of a special case to be stated for the opinion of the Supreme Court by the High Court and the Supreme Court may require a case to be so stated and may return any case so stated in order that further facts may be stated therein.

191. (1) If an accused person has been acquitted by the trial court and if the order of acquittal has been reversed by the High Court the accused person should have a right to appeal to the Supreme Court if he has been sentenced by the High Court to death or life imprisonment. The accused person should also be entitled to prefer an appeal to the Supreme Court if the High Court has withdrawn for trial before itself a case from a court below and has in such trial convicted the accused person and sentenced him as above. Jurisdiction in criminal matters.

(2) The accused person should also be entitled to appeal to the Supreme Court if the High Court certifies that the case is a fit one for appeal to the Supreme Court, subject however, to such provision as may be made in this behalf by the Rules of the Supreme Court and to such conditions as the High Court may by rules establish.

(3) Notwithstanding anything contained in sub-paragraphs (1) and (2) of this paragraph the Federal Legislature may by law confer on the Supreme Court any additional power to entertain and hear an appeal from any judgment, decree or final order or sentence of a High Court subject to such conditions and limitations as may be specified in this behalf.

Finality of the decrees and orders of the Supreme Court.

192. The decisions of the Supreme Court should be final.

Enforcement of the decrees and orders of the Supreme Court.

193. All authorities, Executive and Judicial, in the territory of Pakistan, should act in aid of the Supreme Court. The Supreme Court should have power to pass such decrees or orders as are necessary for doing full justice in any cause or matter pending before it. The orders or decrees of the Supreme Court should be enforceable throughout Pakistan and should be executed in like manner as if such decrees or orders were original decrees or orders of the High Court of the Unit. If any dispute arises as to which High Court should give effect to the orders and decrees of the Supreme Court, it should be for the Supreme Court to determine the question.

Enlargement of the jurisdiction.

194. (1) The Supreme Court should have further jurisdiction and powers with respect to any of the matters in the Federal List which the Federal Legislature may by law confer.

(2) The Supreme Court should have such further jurisdiction and powers with respect to any matter as the Federal Government and the Government of any Unit may by special agreement confer, if the Federal Legislature by law provides for the exercise of such jurisdiction and powers by the Supreme Court.

Special leave to appeal by the Supreme Court.

195. The Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree, final order or sentence in any cause or matter passed or made by any court or tribunal in the territory of Pakistan : provided that it should not be open to the Supreme Court to grant special leave to appeal against any sentence or order passed by any court or tribunal constituted by or under any law relating to the Armed Forces.

Review of judgments or orders by the Supreme Court.

196. Subject to the provisions of any law made by the Federal Legislature or any rules made by the Supreme Court, the Supreme Court should have power to review any judgment pronounced or order made by it.

Advisory jurisdiction of the Supreme Court.

197. (1) If at any time it appears to the Head of the State that a question of law of unusual difficulty has arisen or is likely to arise, it should be open to him to obtain the opinion of the Supreme Court upon it by referring the question to that Court for consideration. The Supreme Court, after hearing the argument, should deliver its opinion in open Court with the concurrence of the majority of the Judges present at the hearing of the case.

(2) The power of the Head of the State to refer questions of law to the Supreme Court should extend in respect of all the matters in the three Lists (Federal, Unit, and Concurrent), contained in Schedule I of these Recommendations.

Rule-making Power of the Supreme Court.

198. (1) The Supreme Court may from time to time, with the approval of the Head of the State, make rules for regulating generally the practice and procedure of the Court, including rules as to persons practising before the Court, as to the time

within which appeals to the Court are to be entered as to the conditions subject to which any judgment pronounced or order made by the Court may be reviewed and the procedure for such review including the time within which applications to the Court for such review 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 the proceedings therein and in particular make rules providing for the summary determination of any appeal which appears to the Court to be frivolous or vexatious or brought for the purpose of delaying justice.

(2) The rules made under sub-paragraph (1) of this paragraph may fix the minimum number of Judges who are to sit for any purpose.

(3) Subject to the provisions of any rules of Court, the Chief Justice of the Supreme Court should determine what Judges are to constitute any division of the Court and what Judges are to sit for any purpose.

(4) No judgment should be delivered by the Supreme 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-paragraph should be deemed to prevent a Judge who does not concur, from delivering a dissenting judgment.

199. Subject to the provisions made by the Federal Legislature the Supreme Court should, as respects the whole territory of Pakistan, have the power to make any order for the purpose of securing the attendance of any person, the discovery or production of any document or the investigation or punishment of any contempt of court. Powers of the Supreme Court regarding witnesses, documents, etc.

200. The Federal Legislature may by law make provision for conferring upon the Supreme Court such supplementary powers not inconsistent with any of the provisions of the Constitution 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 the Constitution. Ancillary powers of the Supreme Court.

201. (1) Appointment of officers and servants of the Supreme Court should be made by the Chief Justice of the Supreme Court or such other Judge or officer of the Court as he may direct. Officers and staff of the Supreme Court.

(2) Subject to the provisions of any law made by the Federal Legislature, the conditions of service of officers and servants of the Supreme Court should be such as may be prescribed by the rules made by the Chief Justice of the Supreme Court, provided that the rules in so far as they relate to salaries, allowances, leave or pension should require the approval of the Head of the State.

(3) All appointments shall be made in accordance with the rules prescribed by the Supreme Court and approved by the Head of the State.

202. (1) The salaries, pensions and allowances of the Judges of the Supreme Court and administrative expenses of the Court including all salaries, allowances and pensions, payable to or in respect of the officers and servants of the Court should be Safeguards for securing independence of Judges.

charged upon the revenues of the Federation and should not be subject to review or discussion in the Federal Legislature.

(2) The judicial conduct of the Judges of the Supreme Court should not be called in question in any of the Legislatures.

(3) The salaries, allowances and rights in respect of leave and pension of the Judges of the Supreme Court should not be varied to their disadvantage during their term of office without their consent.

Supreme Court to be a Court of Record.

203. The Supreme Court should be a court of record and should have summary power to commit or punish for contempt of itself.

Power of the Supreme Court to issue certain writs.

204. The Supreme Court should possess power to issue writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari* only if the Federal Legislature by law confers such power on the Supreme Court. But the Supreme Court shall have such powers for the purpose of Fundamental Rights and of Chapter III of Part I of this Report.

Provisions as to Judges of the Federal Court and proceedings pending therein.

205. (1) The Judges of the Federal Court holding office immediately before the commencement of the Constitution should unless they elect otherwise, become on such commencement the Judges of the Supreme Court in the same capacity in which they held office immediately before such commencement and should be entitled to such salaries and allowances as is provided for in respect of the Judges of the Supreme Court :

Provided that the salaries and allowances of these Judges should not be varied to their disadvantage by the coming into force of the Constitution.

(2) All suits, appeals and proceedings, civil and criminal, pending before the Federal Court at the commencement of the Constitution, should stand transferred to the Supreme Court, and the Supreme Court should have jurisdiction to hear and determine the same, and the judgments and orders of the Federal Court delivered or made before the commencement of the Constitution should have the same force and effect as if they had been delivered or made by the Supreme Court.

(3) Further provisions may be made by the Federal Legislature by law to give effect to the provisions of this paragraph.

CHAPTER II—HIGH COURTS

Establishment of High Court.

206. (1) Until the Federal Legislature by Act otherwise provides, there should be a High Court for each of the Units of East Bengal, the Punjab, Sind and the North-West Frontier Province.

(2) Until the Federal Legislature by Act otherwise provides, the jurisdiction of the High Court of Sind should extend to the Province of Baluchistan and to the Capital of the Federation.

(3) Until the Head of the State by order otherwise provides, the principal seats of the several High Courts established under sub-paragraph (1) should be Dacca, Lahore, Karachi and Peshawar, respectively.

(4) A High Court should sit at its principal seat and, if the Chief Justice with the approval of the Head of the State so desires, may also sit at any other place within its jurisdiction.

207. Every High Court should be a court of record and should consist of a Chief Justice and such other judges as the Head of the State may from time to time deem it necessary to appoint.

Constitution
of High
Courts.

208. (1) Every Judge of a High Court should be appointed by the Head of the State on the recommendation of the Chief Justice of the Supreme Court, who in the case of appointment of a Judge other than the Chief Justice of the High Court, should consult the Chief Justice of the High Court concerned before making his recommendation.

Appointment
of High
Court Judges

(2) Every person appointed to be a Judge of a High Court should before he enters upon his office make or subscribe before the Head of the Unit or some person appointed by him, an oath or affirmation in the prescribed form.

209. (1) A person should not be qualified for appointment as a Judge of a High Court unless he is a citizen of Pakistan, and

Qualifica-
tions of
Judges.

- (a) is a barrister of at least ten years' standing, or
- (b) has for at least ten years been an advocate of any High Court, or of two or more High Courts in succession, or
- (c) is a member of the former Indian Civil Service of at least ten years' standing, who has for at least three years served as, or exercised the powers of, a District Judge, or
- (d) has for at least ten years held a Judicial office in Pakistan :

Provided that a person should not be qualified for appointment as a permanent Chief Justice of a High Court until he has served for not less than three years as a Judge of a High Court, except where he is, or when first appointed to the Judicial office, was a barrister or an advocate.

(2) In computing for the purpose of this paragraph the standing of a barrister or an advocate any period during which the person has held Judicial office after he became a barrister or an advocate, as the case may be, should be included, and in computing the period during which a person has served as a Judge of a High Court, or been an advocate of a High Court or held Judicial office in Pakistan, any period before the establishment of Pakistan during which a person has served as a Judge of a High Court or been an advocate of a High Court or held Judicial office in British India, as defined in the Government of India Act, 1935, as the case may be, should be included.

210. (1) The salary of the Chief Justice of a High Court should be Rs. 4,000 and that of a Puisne Judge Rs. 3,500 per month.

Salaries of
Judges.

(2) Every Judge of the High Court should be entitled to such privileges and allowances, including allowances for expenses in respect of equipment and travelling upon first

appointment, and to such rights in respect of leave of absence or pension, as may from time to time be determined by the Head of the State, and until so determined such privileges, allowances and rights as were prevailing before the commencement of the Constitution: provided that neither the salary of a Judge nor his rights in respect of leave of absence or pension should be varied to his disadvantage during his term of office.

Age of
superannua-
tion.

211. The Judges of the High Court should retire from their office at the age of sixty.

Resignation
of Judges.

212. A Judge of a High Court may, by writing under his hand addressed to the Head of the State, resign his office.

Removal of
Judges.

213. A Judge of a High Court should be removed from his office by the Head of the State on the ground of misbehaviour or infirmity of body or mind, if the Supreme Court on reference being made to it by the Head of the State, reports that the Judge ought on any such ground be removed.

Disabilities
of Judges.

214. No person who has held office as a permanent Judge of a High Court shall plead or act in any court or before any authority within the appellate jurisdiction of such High Court.

Temporary
appointment
of Chief
Justice
and Judges.

215. (1) If the office of a Chief Justice of a High Court becomes vacant, or any such Chief Justice is by reason of absence, or for any other reason unable to perform the duties of his office, those duties should, until some person permanently appointed 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 High Court as the Head of the State may appoint as acting Chief Justice.

(2) If the office of a Judge of a High Court other than the Chief Justice becomes vacant or if any such Judge appointed to act, is for any other reason unable to perform the duties of his office, the Head of the State may appoint a person duly qualified for appointment as a Judge, to act as a Judge of that Court, and the person so appointed should, unless the Head of the State thinks fit to revoke his appointment, be deemed to be a Judge of that Court until some person permanently appointed to the vacant office has entered on the duties thereof, or until the permanent Judge has resumed his duties.

Appointment
of Addition-
al Judges.

216. 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 Head of the State that the number of the Judges of the High Court should for the time being be increased, the Head of the State may appoint persons duly qualified for appointment as Judges, to be Additional Judges of the Court for such period not exceeding two years as he may specify.

Jurisdiction
of High
Courts.

217. The High Courts should have the same jurisdiction as they had immediately before the commencement of the Constitution, but the appropriate Legislature may by law vary the position.

218. (1) Every High Court should have power of superintendence over all courts for the time being subject to its appellate jurisdiction and may do any of the following things :— Administrative functions.

- (a) call for returns ;
- (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 should be kept by the officers of any such court ; and
- (d) settle tables of fees to be allowed to the sheriffs, attorneys and all clerks and officers of courts :

Provided that the rules, forms and tables made under this paragraph should not be inconsistent with the provisions of any law for the time being in force, and should require the previous approval of—

- (i) the Head of the Unit, where the High Court exercises jurisdiction exclusively within one Unit ; or
- (ii) the Head of the State, where the High Court exercises jurisdiction in more than one Unit.

(2) Nothing in this paragraph should be construed as giving to a High Court any jurisdiction to question any judgment of an inferior court which is not otherwise subject to appeal or revision.

219. If a High Court is satisfied that a case pending in a court subordinate to it involves a substantial question of law as to the interpretation of the Constitution, or as to the validity of any Federal or Provincial Act, the determination of which is necessary for the disposal of the case, it should withdraw the case from that court and may,— Transfer of cases from subordinate courts to High Courts.

- (a) either dispose of the case itself, or
- (b) determine such question of law and return the case to the court from which it has been so withdrawn together with a copy of the statement of such question and the said court should on receipt thereof proceed to dispose of the case in conformity with such judgment.

220. The High Courts should possess power to issue writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari*. Power of High Courts to issue certain writs.

221. The Federal Legislature may by Act—

- (a) extend the jurisdiction of a High Court to, or
- (b) exclude the jurisdiction of a High Court from,

any Unit other than, or any area not within, a Unit in which the High Court has its principal seat. Extension of, or exclusion from, jurisdiction of High Courts.

Restrictions
on powers of
Legislatures
of Units to
make laws
regarding
High Court.

222. Where a High Court exercises jurisdiction in relation to any area or areas outside the Unit in which it has its principal seat, nothing in the Constitution should be construed—

- (a) as empowering the Legislature of the Unit in which the Court has its principal seat, to increase, restrict or abolish that jurisdiction; or
- (b) as empowering the Legislature of the Unit in which any such area is situated, to abolish that jurisdiction; or
- (c) as preventing the Legislature having power to make laws in that behalf for any such area from passing, subject to the provisions of sub-paragraph (b), such laws with respect to the jurisdiction of the court in relation to that area as it would have been competent to pass if the principal seat of the Court were in that area.

Rule-making
power of the
High Courts.

223. (1) A High Court may from time to time make rules for regulating generally the practice and procedure of the Court, including rules as to 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 the proceedings therein and in particular make rules providing for the summary determination of any appeal which appears to the Court to be frivolous or vexatious or brought for the purpose of causing delay:

Provided that the rules made under this paragraph should require the previous approval of—

- (a) the Head of the Unit, where the High Court exercises jurisdiction exclusively within one Unit; or
- (b) the Head of the State, where the High Court exercises jurisdiction in more than one Unit.

(2) The rules made under sub-paragraph (1) of this paragraph may fix the minimum number of judges who are to sit for any purpose.

(3) Subject to the provisions of any rules of the Court, the Chief Justice of a High Court should determine what judges are to constitute any Division of the Court and what judges are to sit for any purpose.

(4) No judgment should be delivered by a High 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-paragraph should be deemed to prevent a Judge who does not concur from delivering a dissenting judgment.

Officers and
staff of High
Courts.

224. Appointment of officers and servants of the High Court should be made by the Chief Justice of the High Court or such other Judge or officer of the Court as he may direct.

(2) Subject to the provisions of any law made by the Legislature of the Unit the conditions of service of officers and servants of a High Court should be such as may be prescribed by

rules made by the Chief Justice: provided that the rules in so far as they relate to salaries, allowances, leave or pension should require the approval of the Head of the Unit.

(3) All appointments shall be made in accordance with the rules prescribed by the High Court, and approved by the Head of the Unit.

225. (1) The salaries and allowances of the Judges of the High Court and administrative expenses of the High Court including all salaries, allowances and pensions payable to or in respect of officers and servants of the Court should be charged upon the revenues of the Unit served by them and the pension of the Judges should be charged on the revenues of the Federation and should not be subject to discussion in the Federal Legislature or the Legislature of the Units. Safeguards for securing independence of Judges.

(2) The judicial conduct of the Judges of the High Courts should not be called in question in any Legislature.

(3) The salaries, allowances and rights in respect of leave and pension of the Judges of the High Court should not be varied to their disadvantage during their term of office without their consent.

226. The High Court should be courts of record and should under the Constitution continue to enjoy all the powers that they were enjoying at the commencement of the Constitution including the power to commit for contempt of themselves and other summary powers unless the Federal Legislature by law otherwise directs. High Courts to be courts of record.

227. (1) The Head of the State may, on the recommendation of the Chief Justice of the Supreme Court, transfer a Judge from one High Court to another within the territory of Pakistan. Transfer of High Court Judges.

(2) When a Judge is so transferred, he should, during the period he serves as a Judge of that other High Court, be entitled to recover in addition to his salary such compensatory allowance as the Head of the State may by order determine.

228. There should be no restriction on an advocate or a barrister enrolled in one High Court to practise or appear within the jurisdiction of any other High Court in Pakistan. Right to practise in a High Court other than the High Court where a lawyer is enrolled.

Note.—This will not preclude a High Court from charging fees when an advocate of one High Court wants to practise regularly in another High Court.

229. Where a High Court exercises jurisdiction in relation to more than one Unit or in relation to a Unit and an area not forming part of a Unit— Interpretation.

(a) references in Chapter II of this Part to the Head of the Unit in relation to the Judges of a High Court and references to the revenues of the Unit should be construed as references to the Head of the Unit and the revenues of the Unit in which the Court has its principal seat;

(b) reference to the approval by the Head of the Unit of rules, forms and tables for subordinate courts should

be construed as a reference to the approval thereof by the Head of the Unit in which the subordinate court is situated, or, if it is situated in an area not forming part of a Unit, by the Head of the State.

Provisions
as to Judges
of High
Court.

230. (1) All the Judges of the High Court in Lahore and of the High Court in East Bengal should, unless they elect otherwise, become Judges of the respective High Courts in the same capacity in which they held office immediately before the commencement of the Constitution and should be entitled to such salaries and allowances and such rights in respect of leave of absence and pension as were prevailing immediately before the commencement of the Constitution.

(2) In case of a Judicial Commissioner's Court or a Chief Court being raised to the status of a High Court, necessary provision should be made for the continuance in their respective offices of the existing Judges, unless they think otherwise.

Explanation.—In this paragraph the expression "Judges" does not include an Acting Judge or an Additional Judge of a High Court.

CHAPTER III—THE SUBORDINATE COURTS

Appointment
of District
Judges.

231. (1) Appointments of persons to be, and the posting and promotion of District Judges in any Unit should be made by the Head of the Unit on the recommendation of the High Court exercising jurisdiction in relation to such Unit.

(2) A person not already in the service of the Federation or of the Unit should only be eligible to be appointed a District Judge if he has been, for not less than seven years, an advocate or a pleader and is recommended by the High Court for appointment.

Recruitment
of persons
other than
District
Judges to
the Judicial
Service.

232. (1) The Head of the Unit should, after consultation with the Public Service Commission of the Unit and the High Court concerned, make rules regarding recruitment and appointment of persons other than District and Sessions Judges to the Judicial Service.

(2) Recruitment to the lowest grade of the Judicial Service should be made by competitive examination held by the Public Service Commission of the Unit.

PART XI

Services and Public Service Commissions

CHAPTER I—SERVICES UNDER THE FEDERATION AND THE UNITS

Proceedings
against
public
servants.

233. (1) No Bill or amendment to abolish or restrict the protection afforded to certain servants of the State in Pakistan by section 197 of the Code of Criminal Procedure, 1898, or by sections 80 to 82 of the Code of Civil Procedure, 1908, should be introduced or moved in the Federal Legislature or the Legislature of a Unit without the previous sanction of the Head of the State or the Head of the Unit, as the case may be.

(2) Where a civil suit is instituted against a public officer, within the meaning of that expression as used in the Code of Civil Procedure, 1908, 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 should, if the Head of the State so directs in the case of a person employed in connection with the affairs of the Federation or if the Head of the Unit so directs in the case of a person employed in connection with the affairs of a Unit, be defrayed out of and charged on, the revenues of the Federation or of the Unit, as the case may be.

234. The Head of the State should have powers to raise and maintain the naval, military and air forces in Pakistan and the reserves of such forces, and the power to grant Commissions in such forces and in the reserves, and the said power should extend to the grant of Commissions to any person who has been lawfully enlisted in the forces.

Power of the Head of the State to raise Armed Forces.

235. (1) Except as expressly provided in the Constitution, every person who is a member of a defence service or a civil service of the Federation or an All-Pakistan Service, or holds any post connected with defence or any civil post under the Federation, holds office during the pleasure of the Head of the State; and every person who is a member of a Civil Service of a Unit or holds any Civil post under the Government of a Unit, holds office during the pleasure of the Head of the Unit.

Tenure of office of persons employed in civil capacities or members of the Armed Forces.

(2) No such person as aforesaid should be dismissed or removed from service by an authority subordinate to that by which he was appointed.

(3) No such person as aforesaid should be dismissed or removed 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 clause should 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
- (b) where an 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 give to that person an opportunity of showing cause.

236. (1) Except as expressly provided in the Constitution, appointments to civil service of, and civil posts in, Pakistan should be made—

Appointment and conditions of service.

- (a) in the case of the services of the Federation and posts in connection with the affairs of the Federation, by the Head of the State, or by such person as he may direct;
- (b) in the case of the services of a Unit and posts in connection with the affairs of a Unit, by the Head of the Unit, or such person as he may direct.

(2) Except as expressly provided in the Constitution the conditions of service of persons serving in a civil capacity in Pakistan should, subject to the provisions of this paragraph 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 Head

of the State or by some person or persons authorised by the Head of the State to make rules for the purpose ;

- (b) in the case of persons serving in connection with the affairs of a Unit, by rules made by the Head of the Unit or by some person or persons authorised by the Head of the Unit to make rules for the purpose :

Provided that it should 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.

(3) The said rules should be so framed as to secure—

- (a) that the tenure and conditions of service of no Government servant should be varied to his disadvantage during his term of office except when it becomes necessary to take action with respect to a class of Government servants in pursuance of national policy resulting from national emergency ;
- (b) that every such person as aforesaid should have the same right 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 superannuation ; as he would have had immediately before the commencement of the Constitution ;
- (c) that every person serving in Pakistan in a civil capacity should have at least one appeal against any such order as aforesaid, not being an order of the Head of the State or of the Head of the Unit.

(4) Notwithstanding anything in this paragraph, but subject to any other provision of the Constitution, Acts of the appropriate Legislature may regulate the conditions of service of persons serving in Pakistan and any rule made under this paragraph should have effect subject to the provisions of any such Act :

Provided that nothing in such Act should have effect so as to deprive any person of any right required to be given to him by the provisions of the last preceding sub-paragraph.

Protection
for the
former
Secretary
of State's
Services

237. Except as otherwise expressly provided by this Constitution, every person who 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 commencement of this Constitution to serve under the Government of Pakistan or of a Unit, shall be entitled to receive from the Government of Pakistan and the Government of the Unit which he is from time to time serving, the same conditions of service as respects remuneration, leave and pension and the same rights as respects disciplinary matters or rights as similar thereto as changed circumstances may permit as that person was entitled to receive

from the Government of India and Governments of India Provinces immediately before the 15th August, 1947.

CHAPTER II—PUBLIC SERVICE COMMISSIONS

238. There should be a Public Service Commission for the Federation and a Public Service Commission for each Unit: provided that it may be permissible to set up a Joint Public Service Commission for two or more Units.

Public Service Commission for the Federation and for the Units.

239. (1) The Chairman and other members of a Public Service Commission should be appointed, in the case of the Federal Public Service Commission or a Joint Public Service Commission, by the Head of the State, and in the case of a Unit Public Service Commission, by the Head of the Unit, and should hold office for a term of five years, in the case of Federal Public Service Commission, and for a term of four years, in the case of a Unit Public Service Commission, from the date on which they enter upon their office:

Appointment of the Chairman and Members of Public Service Commissions.

Provided that members of the Federal Public Service Commission as well as of a Unit Public Service Commission should not be removed from their office except in the manner and for reasons that a Judge of the High Court may be removed under the present Constitution. The reference for the removal of a member of the Federal Public Service Commission should be made by the Head of the State and of a member of a Unit Public Service Commission by the Head of the Unit.

(2) A person who holds office as a member of a Public Service Commission should on the expiry of his term of office be ineligible for re-appointment to that office.

(3) On ceasing to hold office—

- (a) the Chairman of the Federal Public Service Commission should be ineligible for further employment under the Federal Government or the Government of a Unit;
- (b) the Chairman of the Public Service Commission of a Unit should be eligible for appointment as the Chairman or a Member of the Federal Public Service Commission or as the Chairman of the Public Service Commission of another Unit, but not for any other employment under the Federal Government or the Government of a Unit;
- (c) no other member of the Federal or of any Unit Public Service Commission should be eligible for any other appointment under the Government of Pakistan except an appointment to a Unit or the Federal Public Service Commission either in the capacity of the Chairman or an ordinary member thereof.

240. (1) It should be the duty of the Federal and Unit Public Service Commissions to conduct examinations for appointments to the services of the Federation and the services of the Units, respectively.

Duties of Public Service Commissions.

(2) It should be the duty of the Federal Public Service Commission, if requested by any two or more Units so to do, to

assist those Units in framing and operating schemes of joint recruitment for any services for which candidates possessing special qualifications are required.

(3) The Head of the State as respects services and posts in connection with the affairs of the Federation, and the Head of the Unit as respects services and posts in connection with the affairs of a Unit, may make regulations specifying the matters in which either generally or in any particular class of cases or in any particular circumstances, it should not be necessary for a Public Service Commission to be consulted but, subject to regulations so made the Federal Public Service Commission or the Unit Public Service Commission, as the case may be, should be consulted—

- (a) on all matters relating to method of recruitment to civil services and for civil posts ;
- (b) on the principle 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 under the Federal Government or the Government of a Unit in a civil capacity 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 under the Federal Government or the Government of a Unit in a civil capacity that any cost 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, of the Unit ;
- (e) on any claim for the award of a pension in respect of injuries sustained by a person while serving under the Federal Government or the Government of a Unit in a civil capacity, and any question as to the amount of any such award ;

and it should be the duty of the Public Service Commission to advise on any matters which the Head of the State or, as the case may be, the Head of the Unit may refer to them.

Composition
of the Public
Service Com-
missions.

241. Not less than one-half of the members of the Public Service Commissions should be persons who have been in the service of the Government of Pakistan for not less than fifteen years. "Service of the Government of Pakistan" means service under the Federal Government or the Government of a Unit and includes such service in pre-partition India.

Expenses
of the Public
Service Com-
missions.

242. The expenses of the Federal or a Unit Public Service Commission including any salaries, allowances and pensions payable to or in respect of the members of staff of the Commission, should be charged on the revenues of the Federation or, as the case may be, of the Unit

243. (1) The Federal Legislature may by law provide for the creation of one or more "All-Pakistan Services" common to the Federation and the Units and subject to the other provisions of the Constitution, regulate the recruitment and conditions of service of persons appointed to any such service.

All-Pakistan
Services.

(2) Until other provisions are made in this behalf the existing "All-Pakistan Services" should be deemed to be services created by the Federal Legislature under this paragraph, and all the laws in force immediately before the commencement of the Constitution and applicable to any public service or any post which continues to exist after the commencement of the Constitution as an "All-Pakistan Services" or as service or post under the Federation or a Unit should continue in force in so far as not inconsistent with the provisions of the Constitution.

244. In the case of the Federal Public Service Commission or a Joint Public Service Commission the Head of the State and, in the case of a Unit Public Service Commission, the Head of the Unit, may by regulations—

Constitution of Public
Service
Commissions.

- (a) determine the number of members of the Commissions, and their conditions of service; and
- (b) make provision with respect to the number of members of the staff of the Commission and their conditions of service:

Provided that the conditions of service of a member of a Public Service Commission should not be varied to his disadvantage during his term of office.

245. It should be the duty of the Federal and Unit Public Service Commissions to present annually to the Head of the State and the Head of the Unit, respectively, a report as to the work done by the Commission and on receipt of such report the Head of the State or the Head of the Unit, as the case may be, should cause a copy thereof together with a memorandum explaining, as respects the cases, if any, where the advice of the Commission was not accepted, the reasons for such non-acceptance, to be laid before each House of the Federal Legislature or the Legislature of a Unit, as the case may be.

Report of
Public Ser-
vice Com-
mission.

PART XII

Elections

246. (1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to the Federal Legislature and to the Legislature of the Units should be vested in an Election Commission.

Superinten-
dence, direc-
tion and
control of
elections

(2) The Election Commission should consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the Head of the State may, in his discretion from time to time, fix and the appointment of the Chief Election Commissioner and other Election Commissioners should, subject to the provisions of any law made in that behalf by the Federal Legislature, be made by the Head of the State in his discretion:

to be vested
in an Elec-
tion
Commis-
sion.

Provided that no law made by the Federal Legislature should have the effect of taking away or abridging the discretion of the Head of the State in respect of the appointment of

the Chief Election Commissioner and the Election Commissioners or in respect of fixing the number of the Election Commissioners.

(3) When more than one Election Commissioner is appointed, the Chief Election Commissioner should act as the Chairman of the Election Commission.

(4) Before each general election to the House of the People and to the Legislature of each Unit, the Head of the State may, in his discretion, appoint, after consultation with the Election Commission, such Regional Commissioners, as he may consider necessary to assist the Election Commission in the performance of the functions conferred on the Commission by sub-paragraph (1).

(5) The Federal Legislature may by law determine the conditions of service and terms of office of the Election Commissioners and the Regional Election Commissioners but no law so made should have the effect of taking away the discretion of the Head of the State in respect of the aforesaid matters :

Provided that the Chief Election Commissioner should not be removed by the Head of the State from his office except in like manner and on the like grounds as a Judge of the Supreme Court :

Provided further that any other Election Commissioner or a Regional Commissioner should not be removed from his office except on the recommendation of the Chief Election Commissioner.

(6) The Head of the State or the Head of a Unit should, when so requested by the Election Commission, make available to the Election Commission or to a Regional Commissioner such staff as may be necessary for the discharge of the functions conferred on the Election Commission by sub-paragraph (1).

Power of the Federal Legislature to make provision with respect to elections to Legislatures.

247. Subject to the provisions of the Constitution, the Federal Legislature may from time to time by law make provision with respect to all matters relating to, or in connection with, elections to either House of the Federal Legislature or to the Legislature of a Unit including the preparation of electoral rolls, the delimitation of constituencies and all other matters necessary for securing the due constitution of each such House :

Provided that the Federal Legislature shall be competent to pass laws concerning the constitution of the Election Commission.

Power of the Legislature of a Unit to make provision with respect to elections to such Legislature.

248. Subject to the provisions of the Constitution, the Legislature of a Unit may from time to time by law make provision with respect to all matters relating to, or in connection with, the elections to the Legislature of a Unit including the preparation of electoral rolls, delimitation of constituencies and other matters necessary for securing the due constitution of such Legislature :

Provided that no law made by the Federal Legislature or the Legislature of a Unit under this and the preceding paragraph

should have the effect of taking away or abridging the discretion of the Head of the State in respect of any matter relating to elections.

249. Notwithstanding anything in the Constitution, the validity of any law relating to the delimitation of constituencies, made or purporting to be made under the foregoing provisions should not be called in question in any court. Bar to interference by court in electoral matters.

250. Notwithstanding anything in the Constitution, no election to either House of the Federal Legislature or to the Legislature of a Unit should be called in question except by an election petition, presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature. Elections to be challenged by election petitions only.

251. (1) There should be Election Tribunals for the decision of doubts and disputes arising out of or in connection with elections to the Federal Legislature and the Legislature of the Units. Election Tribunals.

(2) The Election Tribunals should be appointed by the Head of the State or the Head of the Unit, as the case may be, in his discretion.

(3) An Election Tribunal should consist of not less than three members.

(4) The Chairmen of both the Federal and the Unit Election Tribunals should be persons who are or have been Judges of the Supreme Court or the High Court or have been Judges of the Federal Court.

(5) Members of the Federal and Unit Election Tribunals should be persons who are or have been or are qualified to be judges of the Supreme Court or the High Court or the Federal Court or are or have been District and Sessions Judges :

Provided that not more than one person qualified to be a Judge of the Supreme Court or the High Court or the Federal Court shall be a member of a Tribunal.

PART XIII

Emergency Provisions

252. The Head of the State may proclaim an emergency if— Proclamation of emergency.

- (a) the security or economic life of Pakistan or any part thereof is threatened by war or external aggression or internal disturbance or circumstances arising out of a mass movement of population from or into Pakistan; or
- (b) the financial stability or credit of Pakistan or any part thereof is threatened; or
- (c) a situation arises in which the Government of a Unit cannot be carried on in accordance with the Constitution.

253. A Proclamation of Emergency should cease to operate at the expiration of two months unless, before the expiration of that period, it has been approved by a resolution of the Federal Legislature. Proclamation to be approved by the Federal Legislature.

Effect of
Proclama-
tion of
Emergency.

254. (1) While a Proclamation of Emergency is in force under sub-paragraph (a) of paragraph 252—

- (a) the executive power of the Federation should extend to the giving of directions to any Unit as to the manner in which the executive power of the Unit is to be exercised ;
- (b) the legislative power of the Federation should extend to the making of laws in regard to any matter in the Unit List. An Act of the Federal Legislature passed pursuant to its powers in an emergency should, unless sooner repealed, cease to operate at the expiration of six months after the Proclamation of Emergency has ceased to operate, but the Federal Legislature may, by resolution, extend this period of six months for a further period not exceeding twelve months ;
- (c) the Head of the State may promulgate ordinances for the peace, order and good government of Pakistan but such ordinances should cease to operate at the expiration of six weeks unless, before the expiration of the period, they should have been approved by the Federal Legislature, and should be valid only for so long as the Proclamation of Emergency remains in force and for a period of six months thereafter which may, by a resolution of the Federal Legislature, be extended for a further period not exceeding twelve months ;
- (d) no Act or Ordinance passed or promulgated under emergency powers should suspend any provision of the Constitution relating to the jurisdiction or powers of the Supreme Court or of any High Court.

(2) If an emergency has been proclaimed by reason of failure of constitutional machinery the Head of the State may direct the Head of the Unit to assume on his behalf all or any of the powers in that Unit.

(3) If an emergency has been proclaimed by reason of a threat to financial stability or credit of Pakistan the executive authority of the Federation should extend to the giving of such directions as may be necessary for the purpose of restoring financial stability and credit.

(4) Nothing in the provisions relating to emergencies should restrict the power of the Legislature of a Unit to make laws, but if the Federal Legislature makes a law or an ordinance is promulgated which is in conflict with a Unit law in respect of the same matter, the law of the Federal Legislature or the ordinance, as the case may be, should prevail but only for so long as the law or ordinance remains in force under the foregoing provisions.

Revocation
or variation
of a Procla-
mation.

255. A Proclamation of Emergency may be varied or revoked at any time. A Proclamation varying another Proclamation should be subject to the same conditions relating to approval as apply to the original proclamation under paragraph 253 above.

PART XIV

Miscellaneous

256. No titles should be granted by the Government of Pakistan ; no citizen of Pakistan should accept any title of any kind whatsoever from any King, Prince or foreign State. This should not, however, bar the award, by the Head of the State, of decorations in recognition of valour or distinguished public service. Titles and decorations.

257. All the treaties should be made by the Head of the State : Treaty-making powers.

Provided that treaties dealing with political alliances shall be subject to ratification by the Federal Legislature.

258. The Head of the State should have power to receive and accredit diplomats. Power to receive diplomats.

259. The power to declare war and peace should vest in the Head of the State. Power to declare war.

260. (1) There should be no bar to legal proceedings being taken against the Head of the State or the Head of a Unit even during the tenure of their office for acts done in their personal capacity. Proceedings against Head of the State and the Head of the Unit.

(2) A case against the Head of the State or against the Head of a Unit should be tried by the Supreme Court :

Provided that if the Supreme Court are of the opinion that the case is of a frivolous or vexatious nature, they may punish the plaintiff or the complainant with rigorous imprisonment up to five years and fine without any further trial.

261. Provisions should be made giving protection to all government functionaries for acts done in good faith in their official capacity. Proceedings against public servants.

262. Wherever under the Constitution oath is required to be taken, the Muslims should take it in the name of Allah and the non-Muslims should take it either in the name of Allah or should make an affirmation. Oaths.

263. The interpretation of the Constitution should be left to the Judiciary. But, while framing the details, care should be taken that the final interpretation by the highest Court in Pakistan is not unnecessarily delayed. Interpretation of the Constitution.

264. Karachi should be the Capital of Pakistan and its boundaries should be the same as specified in the Order of the Governor-General promulgated under section 290A of the Government of India Act, 1935, for this purpose. Capital of the Federation.

265. (1) Provision should be made for the abolition of Revenue courts and until Revenue courts are abolished no member of the Federal Legislature or of the Legislature of a Unit should be a member of any tribunal constituted in a Unit having jurisdiction to entertain appeals or revise decisions in revenue cases. Abolition of Revenue courts.

(2) The Legislature of a Unit may by an Act of the Legislature constitute a tribunal to exercise jurisdiction to entertain appeals or revise decisions in revenue cases in the Unit and may by such Act determine their salaries and allowances.

Nomenclature. 266. The words mentioned in column 1 of the statement below, wherever they occur in this Report, should be substituted by the words mentioned in column 2 of the statement :

STATEMENT

1	2
1. Head of the State	President.
2. Parliament	Parliament.
3. House of the Units	Senate.
4. House of the People	House of Representatives.
5. Head of a Unit	Governor.
6. Chief Justice of Pakistan	Chief Justice of Pakistan.
7. Legislature of a Unit	Legislative Assembly.
8. Province	Province.
9. State (in the sense of acceded State).	Acceded State.
10. Prime Minister	Prime Minister.
11. Chief Minister	Chief Minister.
12. Chairman of the House of Units.	Chancellor.
13. Chairman of the House of the people.	Speaker.
14. Chairman of the Legislature of a Unit.	Speaker.

PART XV

Amendment of the Constitution

Procedure for amendment of the Constitution. 267. An amendment of the Constitution may be initiated only by the introduction of a Bill for the purpose in either House of the Federal Legislature. Such a Bill should be passed in each House in identical terms by a majority of the total membership of the House concerned and also by a majority of not less than two-thirds of the members of that House present and voting. In the event of a difference of opinion between the two Houses in respect of any of the provisions of the Bill, the entire Bill should be deemed to be rejected and notwithstanding the provisions of paragraphs 61 and 65 no joint session of the two Houses should be summoned to resolve the conflict between the two Houses.

When the Bill is passed in both the Houses it should be presented to the Head of the State for his assent and upon such assent being given, the Constitution should stand amended in accordance with the provisions of the Bill as passed :

Provided that if such amendment seeks to make any change in this article or in any of the articles mentioned below the amendment should be ratified by each of the Unit Legislatures of Pakistan by a resolution passed to that effect before the Bill is presented to the Head of the State for assent.

Articles regarding—

- (a) (i) Election and Removal of the President,
- (ii) Extent of the Executive Power of the Federation,
- (iii) Extent of the Executive Power of the Units.

- (b) (i) Federal Judiciary,
- (ii) High Courts,
- (iii) Relations between the Federation and the Units.
- (c) The Lists of subjects for the purpose of Legislation, i.e., the Federal, the Unit and the Concurrent Lists.
- (d) Composition of the Houses of the Federal Legislature and other matters concerning the two Houses as provided in paragraphs 61, 64, 65 and 66, and
- (e) Prohibition of Legislation repugnant to the Holy Quran and Sunnah.

PART XVI

Transitional Provisions

268. Notwithstanding the repeal of enactment mentioned in Article (to be specified hereinafter) but subject to the provisions of this Constitution, all the laws including Ordinances, Orders-in-Council, Orders, Rules, Bye-Laws, Regulations, Notifications and other legal instruments in force in Pakistan or having extra-territorial validity immediately before the commencement of this Constitution shall, subject to limitations and conditions applicable to them, continue to be in force until altered, repealed or amended by competent Legislature or other competent authority. Continuance in force of existing laws.

269. (1) For the purpose of bringing the provisions of any law in force in Pakistan into accord with the provisions of this Constitution, the President may during the first two years from the commencement of this Constitution by order make such adaptations and modifications whether by way of amendment or repeal in such law as may be deemed necessary or expedient : Adaptation of existing laws.

Provided that every such order shall be placed for approval before the Federal Legislature within three months of the passing of the order and if the order is passed during the session of the Federal Legislature it shall be placed before it during the same session and the Federal Legislature shall be competent to alter, amend or repeal the order.

270. (1) Until both the Houses of Parliament have been duly constituted in accordance with the provisions of this Constitution, the body functioning as Constituent Assembly immediately before the commencement of this Constitution shall be the provisional Parliament of Pakistan and shall exercise all powers and perform all duties and functions conferred by the provisions of this Constitution on Parliament or any of its two Houses. The provisional Parliament shall continue as such until immediately before the first meeting of the newly constituted Parliament and shall not be dissolved earlier of this Constitution. Any vacancy occurring in the provisional Parliament shall be filled in accordance with the rules in force on the subject in relation to the filling of casual vacancy in the Constituent Assembly, before the commencement of this Constitution. Temporary provisions as to the functioning of the Constituent Assembly as Federal Legislature and as to the Speaker and Deputy Speaker of the Parliament.

(2) Persons holding office as President and Deputy President of the Constituent Assembly discharging functions of the Federal Legislature under the Government of India Act, 1935, immediately before the commencement of this Constitution shall hold office as Speaker and Deputy Speaker respectively of the provisional Parliament functioning under the last preceding paragraph upon the same terms and conditions as were applicable to them immediately before the commencement of this Constitution.

Provision as to President.

271. Until the President is elected and has entered upon his office in accordance with the provisions of this Constitution such person as the Constituent Assembly shall have elected in that behalf shall be the President of Pakistan; and so often as a vacancy occurs in the office of the President elected under this Article, the vacancy shall be filled by a person elected in that behalf by the provisional Parliament functioning under Article 270.

Provisions as to the continuance of persons, authorities, courts and legislative bodies constituted under the pre-existing law.

272. (1) All persons holding offices and all courts of civil, criminal and revenue jurisdiction and all legislative, executive and ministerial authorities exercising functions in the territory of Pakistan immediately before the commencement of this Constitution shall, subject to the provisions of this Constitution, continue to exercise thereafter their respective functions as if those offices, courts and authorities have been constituted under the corresponding provisions of this Constitution.

(2) In particular and without prejudice to the foregoing provisions of this Article, the persons holding offices, and courts and authorities specified below shall continue to discharge their respective functions in the manner indicated in respect of each of them, namely:—

Provisions as to Ministers, Ministers of State and Deputy Ministers.

(a) Persons holding office as Ministers, Ministers of State and Deputy Ministers for the Federation and Ministers for the Provinces immediately before the commencement of this Constitution shall, on such commencement continue to hold their respective offices upon the same terms and conditions as were applicable to them immediately before such commencement, until new Ministers, Ministers of State and Deputy Ministers are appointed by the President or as the case may be by the Governors of the Provinces in accordance with the provisions of this Constitution.

Provisions as to Judges of Federal Court and Proceedings pending in the Federal Court.

(b) The Chief Justice and Judges of the Federal Court holding office immediately before the commencement of this Constitution shall on such commencement become the Chief Justice or, as the case may be, Judges of the Supreme Court and shall hold their respective offices upon the same terms and conditions as were applicable to them immediately before the commencement of this Constitution.

Provisions as to Judges of High Courts.

(c) Every Chief Justice and Judge of every High Court holding office immediately before the commencement of this Constitution shall continue to hold his respective office thereafter upon the same terms and conditions as were applicable to him immediately before the commencement of this Constitution.

- (d) Every court of civil, criminal or revenue jurisdiction and every person exercising judicial, executive or revenue authority immediately before the commencement of this Constitution shall on such commencement continue to exercise, subject to the provisions of this Constitution, the same jurisdiction and authority; and every person holding any public office immediately before the commencement of this Constitution, shall, on such commencement, continue, subject to the provisions of this Constitution, to hold the same office upon the same terms and conditions as were applicable to him immediately before the commencement of this Constitution. Provisions as to the jurisdiction of courts, etc.
- (e) The Chairman and members of the Federal Public Service Commission and of Provincial Public Service Commissions holding offices immediately before the commencement of this Constitution shall continue to hold their respective offices thereafter upon the same terms and conditions as were applicable to them immediately before the commencement of this Constitution until the expiration of the terms of their offices as determined by law and rules under which they were appointed. Provisions as to the Public Service Commissions.
- (f) The persons holding office as the Auditor-General of Pakistan immediately before the commencement of this Constitution shall on such commencement continue to be the Auditor-General of Pakistan upon the same terms and conditions as were applicable to him immediately before the commencement of this Constitution. Provisions as to the Auditor-General.
- (g) Every person holding office as the Governor of a Province immediately before the commencement of this Constitution shall continue to hold that office thereafter upon the same terms and conditions as were applicable to him immediately before the commencement of this Constitution. Provisions as to the Governors of the Provinces.
- (h) In every Province the body functioning as the Provincial Legislature immediately before the commencement of this Constitution shall continue to function as such thereafter until the new House is constituted in accordance with the provisions of this Constitution; and persons holding office as Speaker or Deputy Speaker of every such Legislature immediately before the commencement of this Constitution shall continue to hold their respective offices thereafter upon the same terms and conditions as were applicable to them immediately before the commencement of this Constitution. Provisions as to the Provincial Legislatures.

273. All suits, appeals and proceedings, civil or criminal, pending in the Federal Court immediately before the commencement of this Constitution shall on such commencement be transferred to and be deemed to be pending before the Supreme Court; and the judgments and orders of the Federal Court delivered or made before the commencement of this Constitution shall have the same force and effect as if they had been delivered or made by the Supreme Court. Continuance of pending legal proceedings.

Validity of decisions taken by Constituent Assembly (Legislature) and Provincial Legislatures.

274. Any decision taken in the Constituent Assembly of Pakistan or in the Legislature of a Province in respect of any matter brought before it before the commencement of this Constitution, unless altered by the provisional Parliament or, as the case may be, by the Legislature of the Province, shall have the same effect as if that decision has been taken by the provisional Parliament or, as the case may be, by the Legislature of the Province concerned constituted under this Constitution.

Adaptation by provisional Parliament for removal of difficulties.

275. The provisional Parliament may, for the purpose of removing any difficulties in relation to transition from the provisions of the Government of India Act, 1935, and the Indian Independence Act, 1947, to the provisions of this Constitution, by a resolution direct that this Constitution shall during such period as may be specified in the resolution have effect subject to such adaptations whether by way of modification, addition or omission as it may deem necessary or expedient:

Provided that the adaptation made in the Constitution under this section shall, unless sooner repealed by the Parliament by passing a resolution in that behalf, lapse and shall cease to have a place in the text of the Constitution after the expiry of twelve months, period from the day the first Parliament is constituted.

PART XVII

Language of the Republic

Language of the Republic.

276. (1) The official languages of the Republic should be Urdu and Bengali and such other provincial languages as may be declared to be such by the Head of the State on the recommendation of the Provincial Legislatures concerned.

(2) Members of Parliament shall have a right to speak in Urdu and Bengali in addition to English.

(3) Notwithstanding anything in the above article for a period of 20 years from the commencement of the Constitution the English language should continue to be used for all official purposes of the Republic for which it was being used immediately before such commencement.

(4) For examinations for the Central Services, all Provincial languages should be placed on an equal footing.

(5) Provision should be made for the teaching of Arabic, Urdu and Bengali in secondary schools to enable students to take either one or two of them in addition to the language used as the medium of instruction.

(6) The State should take all measures for the development and growth of a common national language.

(7) A Commission should be appointed ten years after the commencement of the Constitution to make recommendations for the replacement of English.

(8) Notwithstanding anything in the foregoing articles the Federal Legislature may by law provide for the use, after the expiry of the period of 20 years from the commencement of the Constitution, of the English language for such purposes as may be specified in the law.

SCHEDULE I

List I (Federal)

1. All matters necessary for ensuring the defence of the State in peace and war.
2. The Naval, Military and Air Forces of the Federation and any other armed force raised or maintained by the Federation; any armed forces which are not forces of the Federation but are attached to or operating with any of the armed forces of the Federation; any other armed forces of the Federation.
3. Preventive detention in the territory of Pakistan for reasons connected with defence, external affairs or the security of Pakistan; persons subjected to preventive detention under the authority of the Federation.
4. Defence industries; atomic energy and mineral resources necessary for its production.
5. All works connected with services set up under Nos. 1 and 2, and Local Self-Government in Cantonment areas, powers and functions, within such areas, of Cantonment authorities, control of house accommodation in such areas, and the delimitation of such areas.
6. Foreign affairs, all matters which bring Pakistan into relation with any foreign country.
7. Diplomatic, consular and trade representation.
8. International organizations, participation in international conferences, associations and other bodies.
9. War and peace and making of treaties and implementation thereof.
10. Foreign and extra-territorial jurisdiction.
11. Trade and commerce with foreign countries.
12. Foreign loans.
13. Citizenship, naturalization and aliens.
14. Extradition.
15. Passport and visas.
16. Federal Pensions.
17. Piracy and offences against the law of Pakistan and the law of nations committed on the highseas and in the air.
18. Admission into, and emigration and expulsion from, the territory of Pakistan.
19. Pilgrimage to places outside Pakistan.
20. Pilgrimages by foreigners to places inside Pakistan.
21. Inter-Unit and port quarantine, seamen's and marine hospitals, and hospitals connected with port quarantine.
22. Import and export across customs frontiers as defined by the Federal Government.
23. Communications which shall include the control of railways, airways, shipping, navigation on sea and air, national highways declared to be such by the Federal Legislature by law, national ports declared to be such by or under the law made by the Federal Legislature, posts and telegraphs; telephones and wireless.

24. Maritime shipping and navigation, including shipping and navigation on tidal waters; provision of education and training for the mercantile marine and civil aviation; and regulation of such education and training provided by the Units and other agencies.

25. Airways, aircraft and air navigation; provision for aerodromes; regulation and organization of air traffic and of aerodromes; provision for aeronautical education and training; and regulation of such education and training provided by Units and other agencies.

26. Libraries and museums not financed by the Units.

27. Federal agencies and institutes for research, for professional or technical training or for the promotion of special studies.

28. Federal surveys and Federal meteorological organizations.

29. State Bank of Pakistan; banking (except co-operative banking as defined in the Co-operative Societies Act); currency; foreign exchange; coinage, legal tender; cheques; bills of exchange; promissory notes; and other like instruments.

30. The law of Insurance and Government Insurance.

31. Company Law.

32. Copyright; designs; patents; inventions; trade and merchandise marks.

33. Development of industries, when development under Federal control is declared with the consent of the majority of provinces to be expedient in the public interest.

34. Iron, steel, coal, petroleum, natural gas and mineral and any other such mineral products except stone and Fullers earth, the control of which is declared by Federal law to be of national interest provided 75 per cent. of the profit is allowed to the province or provinces concerned.

35. Regulation of mines and oilfields and mineral development to the extent to which such regulation and development under Federal control is declared by Federal law to be expedient in the public interest.

36. Industrial disputes concerning the regulation of labour and safety in mines and oilfields.

37. Regulation of Inter-Unit trade and commerce.

38. Standards of weight and measure.

39. Opium, so far as regards cultivation and manufacture or sale for export.

40. Constitution, organization, jurisdiction and powers of the Supreme Court and fees taken therein.

41. Census.

42. Inquiries and statistics for the purpose of any matters in this List.

43. Central Intelligence Bureau.

44. Federal Services and the Federal Public Service Commission.

45. Election to the Federal Legislature and all other Federal elections

46. Fishing and fisheries beyond territorial waters.

47. Provision for dealing with emergencies in any part of the territory.

48. Offences against laws with respect to any of the matters in this list.

49. Corporation, that is to say, the incorporation, regulation and winding up of trading corporations, including banking, insurance and financial corporations other than Universities, co-operative societies as defined in the Co-operative Societies Act and municipal corporations.

50. Migration of refugees from outside Pakistan.

51. Acquisition or requisitioning of land or property for the purposes of the Federation.

52. Works, lands and buildings vested in or in the possession of the Federal Government for purposes of the Federation (not being naval, military or air force works) ; but as regards property situate in a unit subject always to legislation by unit, save in so far as Federal law otherwise provides ; and as regards property in a Federated State held by virtue of any lease or agreement with that state, subject to the terms of that lease or agreement.

53. Public debt of the Federation ; borrowing of money on the Federal credit.

54. Decorations.

55. Arms, firearms, ammunitions and explosives.

56. Post Office Savings Bank.

57. Admiralty jurisdiction.

58. Lighthouses, including lightships, beacons, and other provision for the safety of shipping and aircraft.

59. Petroleum and other liquids and substances declared by Federal law to be dangerously inflammable, so far as regards possession, storage and transport.

60. The salaries and allowances of the Ministers, Ministers of State, Deputy Ministers and Parliamentary Secretaries of the Federal Government, and of the Chairman and Deputy Chairman of the Houses of the Federal Legislature ; the salaries, allowances and privileges of the members of the Federal Legislature ; and powers and privileges of the Federal Legislature.

61. The enforcement of attendance of persons for giving evidence or producing documents before Committees of the Federal Legislature and the punishment of persons who refuse to give evidence or produce documents before Committees of the Federal Legislature.

62. Stock exchanges and futures markets.

63. Extension of the jurisdiction of a High Court having its principal seat in any Unit to an area outside that Unit and exclusion of the jurisdiction of any such High Court from any area outside that Unit.

64. Jurisdiction and powers of all Courts, other than the Supreme Court, with respect to any of the matters in this List.

65. Extension of the powers and jurisdiction of members of a Police Force belonging to any Unit to any other area in Pakistan, but not so as to enable the police of one Unit to exercise powers and jurisdiction elsewhere without the consent of the Government of the area concerned.

66. Election Commission.

List II (Unit)

1. Public Order (but not including the use of armed forces in aid of civil power), administration of justice ; constitution and organization of all courts, except Supreme Court, and fees taken in such courts.

2. Prisons, reformatories, Borstal institutions and other institutions of a like nature and prisoners detained therein, arrangements with other Units for the use of prisons and other institutions.

3. Police including railway, village and border police.

4. Jurisdiction and powers of all courts except the Supreme Court with respect to any of the matters in this List, procedure in rent and revenue cases.

5. Public debt of the Unit ; borrowing of money on the credit of a Unit.

6. Unit pensions, i.e., pensions payable by a Unit.

7. Unit Services and Unit Public Service Commission.

8. Works, lands and buildings vested in or in the possession of a Unit.

9. Acquisition or requisitioning of land or property for the purposes of Units or when so required for the Federation.

10. Universities ; libraries ; museums and other similar institutions controlled or financed by the Units.

11. Public health ; sanitation ; hospitals ; dispensaries ; registration of births and deaths.

12. Burial, burial grounds and places and manner of disposing of human dead bodies.

13. Elections to the Legislature of a Unit, subject to List I regarding Election Commission.

14. Salaries and allowances of Ministers, Deputy Ministers and Parliamentary Secretaries and Chairman and Deputy Chairman of the Legislature of a Unit ; the salaries, allowances and privileges of the members of the Legislature of a Unit ; powers and privileges of the Legislatures of the Units.

15. Local bodies ; municipalities ; improvement trusts ; district boards ; village administration ; mining settlement authorities ; and other local authorities for the purpose of the Government of local bodies.

16. Pilgrimages other than pilgrimage beyond Pakistan.

17. Education.

18. Communications, that is to say, roads ; bridges ; ferries and other means of communication not covered by List I ; 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 national ports ; vehicles.

19. Water, that is to say, water supplies ; irrigation and canals ; drainage and embankment ; water storage.

20. Water power.

21. Land revenue, including the assessment and collection of revenue, the maintenance of land records ; survey for revenue purposes and records of right ; and alienation of revenue.

22. Agriculture, including agricultural education and research ; protection against pests and prevention of plant diseases ; improvement of stock and prevention of animal diseases ; veterinary training and practice ; pounds and the prevention of cattle trespass.

23. Land, rights in or over land ; land tenures ; relations of landlords and tenants ; collection of rent ; transfer, alienation and devolution of agricultural land ; land improvement ; and agricultural loans ; colonization ; courts of wards ; encumbered and attached estates ; treasure trove ; jagirs and inams chargeable to Unit revenues.

24. Forests ; protection of wild birds and animals.

25. Gas except natural gas, and gasworks.

26. Regulation of mines and oilfields and mineral development subject to the provisions of List I.

27. Fisheries, except fisheries beyond territorial waters.

28. Control of inns and innkeepers, shops and saloons.

29. Trade and commerce in the Unit, fairs and markets.

30. Money-lending and money-lenders.

31. Production, supply and distribution of goods ; development of industries subject to List I.

32. Adulteration of foodstuffs and other goods.

33. Intoxicating liquors and narcotic drugs, including opium but subject to List I.

34. Poor relief ; charities ; charitable institutions ; charitable and religious endowments.

35. The incorporation, regulation and winding up of corporations not specified in List I or Universities ; unincorporated trading, literary, scientific, religious and other societies and associations excepting those of Muslims ; co-operative societies, including co-operative banks as defined in the Co-operative Societies Act.

36. Betting and gambling.

37. Theatres ; dramatic performances and cinemas including sanction of cinematograph films for exhibition.

38. Inquiries and statistics for the purpose of any of the matters in this List.

39. Offences against laws with respect to any of the matters in this List.

40. Waqfs and mosques.

41. Surveys other than Federal Surveys.

42. Large-scale migration from one Unit to another subject to item No. 50 of List I (Federal).

43. Preventive detention for reasons connected with the maintenance of public order.

44. Prevention of cruelty to animals.

45. Vagrancy and criminal tribes.

46. Shipping and navigation 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 subject to List I.

47. Muslim religious societies.

48. The development of waterways for purposes of flood control, irrigation, navigation and hydro-electric power.

List III (Concurrent)

1. Criminal law, including all matters included in the Penal Code at the commencement of the Constitution, but excluding offences against laws with respect to any of the matters specified in List I or List II and excluding the use of naval, military and air forces in aid of the civil power.
2. Criminal procedure, including all matters included in the Code of Criminal Procedure at the commencement of the Constitution.
3. Preventive detention for reasons connected with the maintenance of supplies and services essential to the community ; persons subjected to such detention.
4. Removal of prisoners and accused persons from one Unit to another.
5. Civil procedure, including the law of limitation and all matters included in the Code of Civil Procedure at the commencement of the Constitution ; the recovery in a Unit of claims in respect of taxes and other public demands, including arrears of land revenue and sums recoverable as such arising outside that Unit.
6. Evidence and oath ; recognition of laws, public acts and records and judicial proceedings.
7. Marriage and divorce ; infants and minors ; adoption.
8. Wills, intestacy, joint family property and succession, save as regards agricultural lands.
9. Transfer of property other than agricultural land ; registration of deeds and documents.
10. Trusts and trustees.
11. Contracts, including partnership, agency, contracts of carriage and other special forms of contract but not including contract relating to agricultural land.
12. Arbitration.
13. Bankruptcy and insolvency ; administrators-general and official trustees.
14. Stamp duties other than duties or fees collected by means of judicial stamps, but not including rates of stamp duty.
15. Actionable wrongs, save in so far as included in laws with respect to any of the matters specified in List I or List II.
16. Jurisdiction and powers of all courts except the Supreme Court with respect to any of the matters in this List.
17. Legal, medical and other professions.
18. Newspapers, books and printing presses.
19. Lunacy and mental deficiency, including places for the reception or treatment of lunatics and mental deficient.
20. Poisons and dangerous drugs.
21. Boilers.
22. Nomadic and migratory tribes.
23. Factories.
24. Welfare of labour ; conditions of labour ; provident funds ; employer's liability and workmen's compensation ; health insurance, including invalidity pensions ; old age pensions and maternity benefits.

25. Unemployment ; and unemployment and social insurance.
 26. Trade unions ; industrial and labour disputes subject to the provisions of List I.
 27. The prevention of the extension from one Unit to another of infectious or contagious diseases or pests affecting men, animals or plants.
 28. Electricity.
 29. Shipping and navigation on inland waterways, declared by the Federal Legislature by law to be national waterways as regards mechanically-propelled vessels and the rule of the road on such waterways, carriage of passengers and goods on inland waterways.
 30. Inquiries and statistics for the purpose of any of the matters in this List.
 31. Fees in respect of any of the matters in this List.
 32. Higher technical education, vocational and technical training of labour subject to the provisions of List I.
 33. Scientific and industrial research.
 34. Relief and rehabilitation of refugees.
 35. Price control.
 36. Broadcasting and television.
 37. Ancient and historical monuments declared by law to be of national importance, archaeological sites and remains.
 38. Zakat.
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SCHEDULE II

(Vide para. 46)

Table of Seats—House of the People

Province	Total Seats	Seats reserved for Muslims	Seats reserved for Scheduled Castes	Seats reserved for Hindus other than Scheduled Castes	Seats reserved for Christians	Seats reserved for Buddhists and others	Seats reserved for Parsis
East Bengal	165						
Punjab	75						
Sind	19						
N.-W. F. P.	13						
Frontier States & Tribal Areas	11						
Bahawalpur State	7						
Baluchistan	3						
Baluchistan States Union	2						
Khairpur State	1						
Capital of the Federation	4						

**INTERIM REPORT OF THE COMMITTEE ON FUNDAMENTAL RIGHTS
OF CITIZENS OF PAKISTAN AND ON MATTERS RELATING TO
MINORITIES.**

*(As adopted by the Constituent Assembly of Pakistan on the
6th October, 1950).*

FUNDAMENTAL RIGHTS OF CITIZENS OF PAKISTAN

PART I

CITIZENSHIP

1. At the date on which this Constitution comes into force every person shall be deemed to be a citizen of Pakistan, Citizenship as the date of commencement of the Constitution.

(a) who or either of whose parents or grand-parents was born in the territory comprising Pakistan and who after the fourteenth day of August, 1947, has not been permanently resident in any foreign State ; or

(b) Who or either of whose parents or grand-parents was born in the territories which on the 31st March, 1937, comprised India and who has his domicile in Pakistan as described in Part II of the Indian Succession Act, 1925, had the provisions of that Part been Applicable to him :

Provided that in case of his having, before the date of the commencement of this Constitution, acquired the citizenship of any foreign State, he has renounced such citizenship by depositing a declaration in writing to this effect with an authority appointed for that purpose.

2. The Legislature of Pakistan may make further provision in respect of acquisition and loss of citizenship and all other matters pertaining thereto. Legislature to regulate the Right of Citizenship.

PART II

FUNDAMENTAL RIGHTS

1. (1) (a) All citizens are equal before law ; and

(b) All persons are entitled to the equal protection of law.

(2) No person shall be deprived of life or liberty, save in accordance with law. Protection of life and personal liberty and equality before Law.

2. No person shall be punished in respect of an act the doing of which was not punishable at the time when it was done. Protection in respect of conviction of offence.

3. The right of a citizen to move the High Court for a writ of *habeas corpus* shall not be suspended, except in case of an external or internal threat to the security of the State or other grave emergency. Right to move High Court for writ of *habeas corpus*.

4. There shall be no discrimination on grounds only of religion, race, caste, sex or place of birth with regard to access to places of public entertainment, recreation, welfare or utility : Prohibition of discrimination on grounds of religion, race, caste or sex.

Provided that nothing in this Article shall derogate from the powers of the State to make special provision for the benefit of women and children :

Provided further that the provisions of this Article shall not apply to places of religious worship, shrines or other similar sacred premises.

Prohibition of slavery and forced labour.

5. (1) No one shall be held in slavery or servitude.

(2) All forms of forced labour are declared unlawful :

Provided that the State shall not be prevented from imposing compulsory service for public purposes.

(3) No one shall be subjected to torture or to cruel or inhuman treatment or punishment.

Prohibition of employment of children in factories, etc.

6. The employment of children under fourteen years of age in a factory or a mine, or in occupations involving danger to life or injury to health, is prohibited.

Equality of opportunity in matters of public employment.

7. Every duly qualified citizen shall be eligible to appointment in the service of the State irrespective of religion, race, caste, sex, descent or place of birth :

Provided that it shall not be unlawful to make provision for the reservation of posts in favour of any minority or backward section of citizens in order to give them adequate representation :

Provided further that it shall be lawful to prescribe that only a person belonging to a particular religion or denomination shall be eligible to hold office in connection with any religious or denominational institution or governing body thereof.

Compulsory acquisition of property.

8. (1) No person shall be deprived of his property except in accordance with law.

(2) No property shall be requisitioned or acquired for public purposes under any law authorising such requisition or acquisition unless the law provides for adequate compensation.

Nothing in this clause shall affect the provisions of any existing law or the provisions of any law which may hereafter be made for the purpose of imposing or levying any tax or for the promotion of public health or for the prevention of danger to life or property.

Protection of certain rights regarding freedom of speech, etc.

9. (1) Every citizen of Pakistan is guaranteed :

(a) freedom of speech, expression, association, profession, occupation, trade or business, acquisition and disposal of property and peaceful assembly without arms ;

(b) the right to move freely throughout Pakistan and to reside or settle in any part thereof ;

(c) the right to equal pay for equal work.

(2) Nothing in this Article shall affect the operation of any existing law or prevent the State from making any law relating to libel, slander, defamation, sedition or any other matter which offends against decency or morality or undermines the authority or foundation of the State ; or from restricting or regulating, in the public interest or in the interest of public order, morality or health, any freedom or right guaranteed by this Article.

Freedom of conscience and free profession, practice and propagation of religion.

10. Freedom of conscience and the right to profess, practise and propagate religion are guaranteed subject to public order and morality :

Provided that this Article shall not affect the operation of any existing law or prohibit the making of any law-regulating or restricting any activity of a secular nature.

11. Subject to public order and morality, every religious denomination or any section thereof shall enjoy freedom in the management of its religious affairs including the establishment and maintenance of religious and charitable institutions and the acquisition of movable and immovable property for that purpose.

Freedom to manage religious affairs, and acquisition of property for religious and charitable purposes.

12. Subject to regulations to be made in this behalf every religious denomination or any section thereof shall have the right to procure exclusively for religious purposes all articles which are proved as being essential for worship in accordance with the rules, rites, ceremonies and customs of that denomination.

Right to procure articles for religious purposes.

13. (1) No person attending any educational institution shall be required to take part in any religious instruction or to attend any religious worship other than that of his own community or denomination.

Religious instruction in educational institutions.

(2) No community or denomination shall be prevented from providing religious instruction for pupils of that community or denomination in any educational institution maintained by that community or denomination.

(3) No educational institution maintained wholly out of funds provided by a particular community or denomination shall be refused recognition by the State solely on the ground that it refuses admission to persons of a different community or denomination.

14. No person shall be compelled to pay any special taxes, the proceeds of which are specifically appropriated in payment of expenses for the propagation or maintenance of any particular religion other than his own.

Freedom as to payment of taxes for propagation of any particular religion.

15. (1) Save with regard to matters governed by the personal law of a community, or otherwise expressly provided in this Constitution, any law in force in any part of Pakistan at the time of commencement of this Constitution shall be void in so far as it is repugnant to any provisions of this Part, and any law made hereafter which contravenes any of the provisions of this Part shall, to the extent of such contravention, be void.

Savings.

(2) The term 'law' in this Article includes an ordinance, regulation, custom or usage having the force of law, bye-law, rule, order or notification.

16. The notion of untouchability being inconsistent with human dignity its practice is declared unlawful and shall be an offence in accordance with law.

Abolition of untouchability.

**REPORT OF THE COMMITTEE ON FUNDAMENTAL RIGHTS OF
CITIZENS OF PAKISTAN AND ON MATTERS RELATING TO
MINORITIES.**

*(As adopted by the Constituent Assembly of Pakistan on the 7th
September, 1954).*

PART I

SAFEGUARDS FOR MINORITIES

The following safeguards should be provided for the minority communities of Pakistan :—

1. Any minority residing in the territory of Pakistan or any part thereof having a distinct language, script or culture of its own shall not be prevented from serving the same. Safeguard for language, etc.
2. The State shall not, in granting aid to educational institutions, discriminate against any educational institution merely on the ground that it is mainly maintained by a religious minority. Safeguards in respect of educational institutions.
3. There shall be a Minister for Minority Affairs both at the Centre and in the Provinces to look after the interests of the minorities and to see that the safeguards provided in the Constitution for the minorities are duly observed. Portfolios for Minority Affairs.

PART II

FUNDAMENTAL RIGHTS

To the Fundamental Rights already adopted by the Constituent Assembly, the following Articles may be added :—

1. No citizen shall be denied admission into any educational institution wholly maintained by the State on the ground only of religion, race, or caste : No discrimination in admission to educational institutions.
 Provided that nothing in this Article shall prevent the State from making any special provision for the advancement of any socially or educationally backward class of citizens.
2. There shall be no discrimination against any community in the matter of exemption from or concession of taxes granted with respect to religious institutions. Safeguards against discrimination of religious institutions in taxes.
3. (1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed. Enforcement of the Fundamental Rights by moving the Supreme Court.
 (2) Without prejudice to the powers vested in any court by or under this Constitution the Supreme Court and the High Courts within their respective jurisdiction shall have power to issue any writ including a writ in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* or *certiorari*, for the enforcement of any of the rights guaranteed by this Part.
 (3) The right guaranteed by this Article shall not be suspended except as otherwise provided in this Constitution.

PART III

DIRECTIVE PRINCIPLES OF STATE POLICY

The following may be provided as Directive Principles of State Policy :—

Protection to
places of
worship, etc.

Promotion of
educational
and economic
interests.

1. Protection shall be accorded to all duly established places of worship, burial and disposal of the dead.
2. The State shall promote with special care the educational and economic interests of the backward classes and, in particular, of the Scheduled Castes and the people of the Tribal Areas.