

THE CONSTITUTION OF INDIA
[As modified upto-date]
(EXTRACTS)



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**LOK SABHA SECRETARIAT
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P R E F A C E

The purpose of this publication is to make available in a handy form the salient features of the Constitution of India as amended upto-date. The extracts have been reproduced in the original words of the Constitution. For a detailed study of the Constitution or any article thereof, however, a reference should be made to the full text of the Constitution :

NEW DELHI;
May, 1957.

M. N. KAUL,
Secretary.

CONTENTS

	PAGES
Preface	(i)
Preamble	I
PART I: THE UNION AND ITS TERRITORY: Articles 1 to 3	2—3
PART II: CITIZENSHIP: Articles 5 & 8.	3
PART III : FUNDAMENTAL RIGHTS: Articles 13—33	4—13
PART IV: DIRECTIVE PRINCIPLES OF STATE POLICY: Articles 37—51	13—15
PART V: THE UNION:	
Chapter I: The Executive Articles 52—56, 58, 61, 64—67, 70, 72, 74—78	15—18
Chapter II: Parliament : Articles 79—81, 83—85, 87—89, 93—99, 101, 102, 104—114, 118—122	19—30
Chapter III: Legislative Powers of the President: Article 123	30
Chapter IV: The Union Judiciary: Articles 124, 129—132, 137—139, 141	30—32
Chapter V : Comptroller and Auditor-General of India : Articles 148—151	32—33
PART VI: THE STATES:	
Chapter I: General : Article 152	33
Chapter II: The Executive: Articles 153—158, 162, 163, 165—167.	33—35
Chapter III: The State Legislature: Articles 168, 170—172, 174, 176, 201	36—37
Chapter IV: Legislative Power of the Governor: Article 213	37
Chapter V: The High Courts in the States: Articles 214—218, 220, 224, 226, 227, 230	37—39
PART VIII : THE UNION TERRITORIES: Articles 239-240	39
PART X: THE SCHEDULED AND TRIBAL AREAS: Article 244	39
PART XI: RELATIONS BETWEEN THE UNION AND THE STATES:	
Chapter I: Legislative Relations : Articles 245—251, 253—255	40—42
Chapter II: Administrative Relations: Articles 256—259, 263	42—44
PART XII: FINANCE, PROPERTY, CONTRACTS AND SUITS:	
Chapter I: Finance: Articles 264—268, 270, 280	44—46
Chapter II: Borrowing: Articles 292-293	46
PART XIII : TRADE, COMMERCE AND INTERCOURSE within the Territory of India : Articles 301—305	46—47

(iii)

	PAGES
PART XIV: SERVICES UNDER THE UNION AND THE STATES:	
Chapter I: Services > Articles 309—311	47—49
Chapter II: Public Service Commissions : Articles 315, 320, 323	49
PART XV: ELECTIONS: Articles 324—328	49—51
PART XVI : SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES: Articles 330—333, 335, 338—342	51—54
PART XVII : OFFICIAL LANGUAGE:	
Chapter I: Language of the union: Articles 343, 344	54
Chapter II: Regional Languages: Article 345	54—55
PART XVIII: EMERGENCY PROVISIONS : Articles 352—356, 360	55—57
PART XIX: MISCELLANEOUS: Article 367	57
PART XX: AMENDMENT TO THE CONSTITUTION: Article 368	57
FIRST SCHEDULE	58—61
SEVENTH SCHEDULE	61—74



THE CONSTITUTION OF INDIA

Preamble

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a **SOVEREIGN DEMOCRATIC REPUBLIC** and to secure to all its citizens:

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity; and to promote among them all;

FRATERNITY assuring the dignity of the individual and the unity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do **HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.**

PART I

THE UNION AND ITS TERRITORY

1. (1) India, that is Bharat, shall be a Union of States.

*[(2) The States and the territories thereof shall be as specified in the First Schedule].

(3) the territory of India shall comprise—

(a) the territories of the States;

@[(b) the Union territories specified in the First Schedule;
and]

(c) such other territories as may be acquired.

2. Parliament may by law admit into the Union or establish, new States on such terms and conditions as it thinks fit.

3. Parliament may by law—

(a) form a new State by separation of territory from any State or by uniting two or more States or parts of States or by uniting any territory to a part of any State;

(b) increase the area of any State;

(c) diminish the area of any State;

(d) alter the boundaries of any State;

(e) alter the name of any State:

‡[Provided that no Bill for the purpose shall be introduced in either House of Parliament except on the recommendation of the President and unless, where the proposal contained in the Bill affects the area, boundaries or name of any of the States^{****}, the Bill has been referred by the President to the Legislature of that State for expressing its views thereon within such period as

*Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 2, for the original cl. (2).

@Subs. for the original sub-clause (b), *ibid.*

‡Subs. by the Constitution (Fifth Amendment) Act, 1955, for the original proviso.

****The words and letters "specified in Part A and Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956 s. 29 and Sch.

may be specified in the reference or within such further period as the President may allow and the period so specified or allowed has expired.]².

PART II

CITIZENSHIP

5. At the commencement of this Constitution, every person who has his domicile in the territory of India—

- (a) who was born in the territory of India; or
- (b) either of whose parents was born in the territory of India; or
- (c) who has been ordinarily resident in the territory of India for not less than five years immediately preceding such commencement,

shall be a citizen of India.

8. Notwithstanding anything in article 5, any person who or either of whose parents or any of whose grand-parents was born in India as defined in the Government of India Act, 1935 (as originally enacted), and who is ordinarily residing in any country outside India as so defined shall be deemed to be a citizen of India if he has been registered as a citizen of India by the diplomatic or consular representative of India in the country where he is for the time being residing on an application made by him therefor to such diplomatic or consular representative, whether before or after the commencement of this Constitution, in the form and manner prescribed by the Government of the Dominion of India or the Government of India.

²In its application to the State of Jammu and Kashmir the following further proviso shall be added to art. 3:—

"Provided further that no Bill providing for increasing or diminishing the area of the State of Jammu and Kashmir or altering the name or boundary of that State shall be introduced in Parliament without the consent of the Legislature of that State."

*This part shall be deemed to have been applicable in relation to the State of Jammu and Kashmir as from the 26th day of January, 1950.

PART III
FUNDAMENTAL RIGHTS

General

*13. (1) All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void.

(2) The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.

Right to Equality

14. The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

15. (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to—

(a) access to shops, public restaurants, hotels and places of public entertainment; or

(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

(3) Nothing in this article shall prevent the State from making any special provision for women and children.

**[(4) Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.]@

*In its application to the State of Jammu and Kashmir, in art. 13 references to the commencement of Constitution shall be construed as references to the commencement of the Constitution (Application to Jammu and Kashmir) Order, 1954, i.e. the 14th day of May, 1954.

**Ins. by the Constitution (First Amendment) Act, 1951, s. 2.

@In its application to the State of Jammu and Kashmir, reference to Scheduled Tribes in col. (4) of art. 15 shall be omitted.

16. (1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office * [under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory] prior to such employment or appointment.

(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.

17. "Untouchability" is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of "Untouchability" shall be an offence punishable in accordance with law.

18. (1) No title, not being a military or academic distinction, shall be conferred by the State.

(2) No citizen of India shall accept any title from any foreign State.

(3) No person who is not a citizen of India shall, while he holds any office of profit or trust under the State, accept without the consent of the President, any title from any foreign State.

(4) No person holding any office of profit or trust under the State shall, without the consent of the President, accept any present, emolument, or office of any kind from or under any foreign State.

*Subs. by the Constitution, (Seventh Amendment) Act, 1956.

Right to Freedom

- *19. (1) All citizens shall have the right—
- (a) to freedom of speech and expression;
 - (b) to assemble peaceably and without arms;
 - (c) to form associations or unions;
 - (d) to move freely throughout the territory of India;
 - (e) to reside and settle in any part of the territory of India;
 - (f) to acquire, hold and dispose of property; and
 - (g) to practise any profession, or to carry on any occupation, trade or business.

@[(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.]

(3) Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of public order, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(4) Nothing in sub-clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

*In its application to the State of Jammu and Kashmir, for a period of five years from the 14th May, 1954 art. 19 shall be subject to the following modifications:—

(i) in clauses (3) and (4) after the words "in the interests of", the words "the security of the State or" shall be inserted;

(ii) in clause (5), for the words "or for the protection of the interests of any Scheduled Tribe", the words "or in the interests of the security of the State" shall be substituted and

(iii) the following new clause shall be added, namely:—

'(7) The words "reasonable restriction" occurring in clauses (2), (3), (4) and (5) shall be construed as meaning such restrictions as the appropriate Legislature deems reasonable.'

@Subs. by the Constitution (First Amendment) Act, 1951, s. 3, for the original cl. (2) (with retrospective effect).

(5) Nothing in sub-clauses (d), (e), and (f) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe.

(6) Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, *nothing in the said sub-clause, shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to,—

- (i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business; or
- (ii) the carrying on by the State or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.

20. (1) No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.

(2) No person shall be prosecuted and punished for the same offence more than once.

(3) No person accused of any offence shall be compelled to be a witness against himself.

21. No person shall be deprived of his life or personal liberty except according to procedure established by law.

22. (1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.

(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place to the court of the magistrate and no such person shall

*Subs. by the Constitution (First Amendment) Act, 1951, s. 3, for certain original words.

be detained in custody beyond the said period without the authority of a magistrate.

(3) Nothing in clauses (1) and (2) shall apply—

- (a) to any person who for the time being is an enemy alien; or
- (b) to any person who is arrested or detained under any law providing for preventive detention.

* (4) No law providing for preventive detention shall authorise the detention of a person for a longer period than three months, unless—

- (a) an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, Judges of a High Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention:

Provided that nothing in this sub-clause shall authorise the detention of any person beyond the maximum period prescribed by any law made by Parliament under sub-clause (b) of clause (7); or

- (b) such person is detained in accordance with the provisions of any law made by Parliament under sub-clauses (a) and (b) of clause (7).

(5) When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order.

Right against Exploitation

23. (1) Traffic in human beings and *begar* and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

(2) Nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them.

*In its application to the State of Jammu and Kashmir, in cls. (4) and (7) of art. 22, for the word 'Parliament', substitute 'the Legislature of the State'.

24. No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

Right to Freedom of Religion

25. (1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.

26. Subject to public order, morality and health, every religious denomination or any section thereof shall have the right—

- (a) to establish and maintain institutions for religious and charitable purposes;
- (b) to manage its own affairs in matters of religion;
- (c) to own and acquire movable and immovable property; and
- (d) to administer such property in accordance with law.

27. No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

28. (1) No religious instruction shall be provided in any educational institution wholly maintained out of State funds.

Cultural and Educational Life

29. (1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.

(2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds or grounds only of religion, race, caste, language or any of them.

30. (1) All minorities whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

(2) The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.

Right to Property

31. (1) No person shall be deprived of his property save by authority of law.

*(2) No property shall be compulsorily acquired or requisitioned save for a public purpose and save by authority of a law which provides for compensation for the property so acquired or requisitioned and either fixes the amount of the compensation or specifies the principles on which, and the manner in which, the compensation is to be determined and given; and so such law shall be called in question in any court on the ground that the compensation provided by that law is not adequate.

(2A) Where a law does not provide for the transfer of the ownership or right to possession of any property to the State or to a corporation owned or controlled by the State, it shall not be deemed to provide for the compulsory acquisition or requisitioning of property, notwithstanding that it deprives any person of his property.]

(3) No such law as is referred to in clause (2) made by the Legislature of a State shall have effect unless such law, having been reserved for the consideration of the President, has received his assent.

(4) If any Bill pending at the commencement of this Constitution in the Legislature of a State has, after it has been passed by such Legislature, been reserved for the consideration of the President and has received his assent, then, notwithstanding anything in this Constitution, the law so assented to shall not be called in question in any court on the ground that it contravenes the provisions of Clause (2).

(5) Nothing in clause (2) shall affect—

(a) the provisions of any existing law other than a law to which the provisions of clause (6) apply, or

(b) the provisions of any law which the State may hereafter make—

(i) for the purpose of imposing or levying any tax or penalty, or

(ii) for the promotion of public health or the prevention of danger to life or property, or

(iii) in pursuance of any agreement entered into between the Government of the Dominion of India or the Government of India and the Government of any other country, or otherwise, with respect to property declared by law to be evacuee property.

*Subs. by the Constitution (Fourth Amendment) Act, 1955, s. 2.

(6) Any law of the State enacted not more than eighteen months before the commencement of this Constitution may within three months from such commencement be submitted to the President for his certification; and thereupon if the President by public notification so certifies, it shall not be called in question in any court on the ground that it contravenes the provisions of Clause (2) of this article or has contravened the provisions of sub-section (2) of section 299 of the Government of India Act, 1935.

*[31A. @ (1) Notwithstanding anything contained in article 13, no law providing for—

- (a) the acquisition by the State of any estate or of any rights therein or the extinguishment or modification of any such rights, or
- (b) the taking over of the management of any property by the State for a limited period either in the public interest or in order to secure the proper management of the property, or
- (c) the amalgamation of two or more corporations either in the public interest or in order to secure the proper management of any of the corporations, or
- (d) the extinguishment or modification of any rights of managing agents, secretaries and treasurers, managing directors, directors or managers of corporations, or of any voting rights of shareholders thereof, or
- (e) the extinguishment or modification of any rights accruing by virtue of any agreement, lease or licence for the purpose of searching for, or winning, any mineral or mineral oil, or the premature termination or cancellation of any such agreement, lease or licence,

shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by article 14, article 19 or article 31:

Provided that where such law is a law made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent.]

*Ins. by the Constitution (First Amendment) Act, 1951, s. 4 (with retrospective effect).

@Subs. by the Constitution (Fourth Amendment) Act, 1955, s. 3 (with retrospective effect).

(2) In this article.—

- (a) the expression “estate” shall, in relation to any local area, have the same meaning as that expression or its local equivalent has in the existing law relating to land tenures in force in that area, and shall also include any *jagir*, *inam*, or *muafi* or other similar grant *[and in the States of Madras and @[Kerala], any *janmam* right];
- (b) the expression “rights”, in relation to an estate, shall include any rights vesting in a proprietor, sub-proprietor, under-proprietor, tenure-holder *[*raiyat*, under-*raiyat*] or other intermediary and any rights or privileges in respect of land revenue.]

‡[31B. Without prejudice to the generality of the provisions contained in article 31A, none of the Acts and Regulations specified in the Ninth Schedule nor any of the provisions thereof shall be deemed to be void, or ever to have become void, on the ground that such Act, Regulation or provision is consistent with, or takes away or abridges any of the rights conferred by, any provisions of this Part, and notwithstanding any judgment, decree or order of any court or tribunal to the contrary, each of the said Acts and Regulations shall, subject to the power of any competent Legislature to repeal or amend it, continue in force.]

Right to Constitutional Remedies

32. (1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed.

(2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari*, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part.

** (3) Without prejudice to the powers conferred on the Supreme Court by clauses (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2).

*Ins. by the Constitution (Fourth Amendment) Act, 1955, s. 3 (with retrospective effect).

@Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch., for “Travancore-Cochin.”

‡Ins. by the Constitution (First Amendment) Act, 1951, s. 5.

**In its application to the State of Jammu and Kashmir, cl. (3) of art. 32 shall be omitted; and after cl. (2), a new clause shall be inserted.

(4) The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution.

33. Parliament may by law determine to what extent any of the rights conferred by this Part shall, in their application to the members of the Armed Forces or the Forces charged with the maintenance of public order, be restricted or abrogated so as to ensure the proper discharge of their duties and the maintenance of discipline among them.

PART IV*

DIRECTIVE PRINCIPLES OF STATE POLICY

37. The provisions contained in this Part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.

38. The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.

39. The State shall, in particular, direct its policy towards securing—

- (a) that the citizens, men and women equally, have the right to an adequate means of livelihood;
- (b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;
- (c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;
- (d) that there is equal pay for equal work for both men and women;
- (e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;
- (f) that childhood and youth are protected against exploitation and against moral and material abandonment.

40. The State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.

*Not applicable to the State of Jammu and Kashmir.

41. The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

42. The State shall make provision for securing just and humane conditions of work and for maternity relief.

43. The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial, or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas.

44. The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.

45. The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.

46. The State shall promote with special care the educational and economic interests of the weaker sections of the people, and in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

47. The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties, and, in particular, the State shall endeavour to bring about prohibition and the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

48. The State shall endeavour to organise agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle.

49. It shall be the obligation of the State to protect every monument or place or object of artistic or historic interest, * [declared by or under law made by Parliament] to be of national importance, from spoilage, disfigurement, destruction, removal disposal or export, as the case may be.

*Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 27, for "declared by Parliament by law."

50. The State shall take steps to separate the judiciary from the executive in the public services of the State.

51. The State shall endeavour to—

- (a) promote international peace and security;
- (b) maintain just and honourable relations between nations;
- (c) foster respect for international law and treaty obligations in the dealings of organised peoples with one another; and
- (d) encourage settlement of international disputes by arbitration.

PART V

THE UNION

Chapter I—The Executive

The President and Vice-President

52. There shall be a President of India.

53. (1) The executive power of the Union shall be vested in the President and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution.

(2) Without prejudice to the generality of the foregoing provision, the supreme command of the Defence Forces of the Union shall be vested in the President and the exercise thereof shall be regulated by law.

(3) Nothing in this article shall—

- (a) be deemed to transfer to the President any functions conferred by any existing law on the Government of any State or other authority; or
- (b) prevent Parliament from conferring by law functions on authorities other than the President.

54. The President shall be elected by the members of an electoral college consisting of—

- (a) the elected members of both Houses of Parliament; and
- (b) the elected members of the Legislative Assemblies of the States.

55. (1) As far as practicable, there shall be uniformity in the scale of representation of the different States at the election of the President.

(2) The election of the President shall be held in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot.

58. (1) No person shall be eligible for election as President from the date on which he enters upon his office.

56. (1) No person shall be eligible for election as President unless he—

(a) is a citizen of India,

(b) has completed the age of thirty-five years, and

(c) is qualified for election as a member of the House of the People.

(2) A person shall not be eligible for election as President if he holds any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.

61. (1) When a President is to be impeached for violation of the Constitution, the charge shall be preferred by either House of Parliament.

64. The Vice-President shall be *ex-officio* Chairman of the Council of States and shall not hold any other office of profit.

65. (1) In event of the occurrence of any vacancy in the office of the President by reason of his death, resignation or removal, or otherwise, the Vice-President shall act as President until the date on which a new President elected in accordance with the provisions of this Chapter to fill such vacancy enters upon his office.

(2) When the President is unable to discharge his functions owing to absence, illness or any other cause, the Vice-President shall discharge his functions until the date on which the President resumes his duties.

(3) The Vice-President shall, during, and in respect of, the period while he is so acting as, or discharging the functions of, President, have all the powers and immunities of the President and be entitled to such emoluments, allowances and privileges as may be determined by Parliament by law and, until provision in that behalf is so made, such emoluments, allowances and privileges as are specified in the Second Schedule.

66. (1) The Vice-President shall be elected by the members of both Houses of Parliament assembled at a joint meeting in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot.

(2) The Vice-President shall not be a member of either House of Parliament or of a House of the Legislature of any State, and if a member of either House of Parliament or of a House of the Legislature of any State be elected Vice-President, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as Vice-President.

67. The Vice-President shall hold office for a term of five years from the date on which he enters upon his office.

70. Parliament may make such provision as it thinks fit for the discharge of the functions of the President in any contingency not provided for in this Chapter.

72. (1) The President shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence—

- (a) in all cases where the punishment or sentence is by a Court Martial;
- (b) in all cases where the punishment or sentence is for an offence against any law relating to a matter to which the executive power of the Union extends;
- (c) in all cases where the sentence is a sentence of death.

74. (1) There shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President in the exercise of his functions.

(2) The question whether any, and if so what, advice was tendered by Ministers to the President shall not be inquired into in any court.

75. (1) The Prime Minister shall be appointed by the President and the other Ministers shall be appointed by the President on the advice of the Prime Minister.

(2) The Ministers shall hold office during the pleasure of the President.

(3) The Council of Ministers shall be collectively responsible to the House of the People.

(4) Before a Minister enters upon his office, the President shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule.

(5) A Minister who for any period of six consecutive months is not a member of either House of Parliament shall at the expiration of that period cease to be a Minister.

(6) The salaries and allowances of Ministers shall be such as Parliament may from time to time by law determine and, until Parliament so determines, shall be as specified in the Second Schedule.

The Attorney-General for India

76. (1) The President shall appoint a person who is qualified to be appointed a Judge of the Supreme Court to be Attorney-General for India.

(2) It shall be the duty of the Attorney-General to give advice to the Government of India upon such legal matters, and to perform such other duties of a legal character, as may from time to time be referred or assigned to him by the President, and to discharge the functions conferred on him by or under this Constitution or any other law for the time being in force.

(3) In the performance of his duties the Attorney-General shall have right of audience in all courts in the territory of India.

(4) The Attorney-General shall hold office during the pleasure of the President, and shall receive such remuneration as the President may determine.

Conduct of Government Business

77. (1) All executive action of the Government of India shall be expressed to be taken in the name of the President.

78. It shall be the duty of the Prime Minister—

- (a) to communicate to the President all decisions of the Council of Ministers relating to the administration of the affairs of the Union and proposals for legislation;
- (b) to furnish such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for; and
- (c) if the President so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council.

Chapter II—Parliament

General

79. There shall be a Parliament for the Union which shall consist of the President and two Houses to be known respectively as the Council of States and the House of the People.

80. (1) The Council of States shall consist of—

(a) twelve members to be nominated by the President in accordance with the provisions of clause (3); and

(b) not more than two hundred and thirty-eight representatives of the States *[and of the Union territories.]

(2) The allocation of seats in the Council of States to be filled by representatives of the States *[and of the Union territories] shall be in accordance with the provisions in that behalf contained in the Fourth Schedule.

(3) The members to be nominated by the President under sub-clause (a) of clause (1) shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely:—

Literature, science, art and social service.

(4) The representatives of each State ^{****}in the Council of States shall be elected by the elected members of the Legislative Assembly of the State in accordance with the system of proportional representation by means of the single transferable vote.

(5) The representatives of the @[Union territories] in the Council of States shall be chosen in such manner as Parliament may by law prescribe.

†[81. (1) Subject to the provisions of article 331, the House of the People shall consist of—

(a) not more than five hundred members chosen by direct election from territorial constituencies in the States, and

*Added by the Constitution (Seventh Amendment) Act, 1956, s. 3.

(1) The words and letters "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 3.

@Subs. for "States specified in Part C of the First Schedule", *ibid.*

†Subs. by s. 4, *ibid.*, for arts. 81 and 82.

(b) not more than twenty members to represent the Union territories, chosen in such manner as Parliament may by law provide.

(2) for the purposes of sub-clause (a) of clause (1),—

(a) there shall be allotted to each State a number of seats in the House of the People in such manner that the ratio between that number and the population of the State is, so far as practicable, the same for all States; and

(b) each State shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it is, so far as practicable, the same throughout the State.

(3) In this article, the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published.]

83. (1) The Council of States shall not be subject to dissolution, but as nearly as possible one-third of the members thereof shall retire as soon as may be on the expiration of every second year in accordance with the provisions made in that behalf by Parliament by law.

(2) The House of the People, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer and the expiration of the said period of five years shall operate as a dissolution of the House.

84. A person shall not be qualified to be chosen to fill a seat in Parliament unless he—

(a) is a citizen of India;

(b) is, in the case of a seat in the Council of States, not less than thirty years of age and, in the case of a seat in the House of the People, not less than twenty-five years of age; and

(c) possesses such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.

*[85. (1) The President shall from time to time summon each House of Parliament to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

*Subs. by the Constitution (First Amendment) Act, 1951, s. 6, for the original art.

(2) The President may from time to time—

(a) prorogue the Houses or either House;

(b) dissolve the House of the People.]

87. (1) At the commencement of @ [the first session after each general election to the House of the People and at the commencement of the first session of each year] the President shall address both Houses of Parliament assembled together and inform Parliament of the causes of its summons.

(2) Provision shall be made by the rules regulating the procedure of either House for the allotment of time for discussion of the matters referred to in such address†***.

88. Every Minister and the Attorney-General of India shall have the right to speak in, and otherwise to take part in the proceedings of, either House, any joint sitting of the Houses, and any committee of Parliament of which he may be named a member, but shall not by virtue of this article be entitled to vote.

Officers of Parliament

89. (1) The Vice-President of India shall be *ex-officio* Chairman of the Council of States.

(2) The Council of States shall, as soon as may be, choose a member of the Council to be Deputy Chairman thereof and, so often as the office of Deputy Chairman becomes vacant, the Council shall choose another member to be Deputy Chairman thereof.

93. The House of the People shall, as soon as may be, choose two members of the House to be respectively Speaker and Deputy Speaker thereof and, so often as the office of Speaker or Deputy Speaker becomes vacant, the House shall choose another member to be Speaker or Deputy Speaker, as the case may be.

94. A member holding office as Speaker or Deputy Speaker of the House of the People—

(a) shall vacate his office if he ceases to be a member of the House of the People;

(b) may at any time, by writing under his hand addressed, if such Member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker, to the Speaker, resign his office; and

@Subs. by the Constitution (First Amendment) Act, 1951, s. 7, for "every session".

†The words "and for the precedence of such discussion over other business of the House" were omitted, *ibid.*

(c) may be removed from his office by a resolution of the House of the People passed by a majority of all the then members of the House.

95. (1) While office of Speaker is vacant, the duties of the office shall be performed by the Deputy Speaker or, if the office of Deputy Speaker is also vacant, by such member of the House of the People as the President may appoint for the purpose.

96. (1) At any sitting of the House of the People, while any resolution for the removal of the Speaker from his office is under consideration, the Speaker, or while any resolution for the removal of the Deputy Speaker from his office is under consideration, the Deputy Speaker, shall not, though he is present, preside, and the provisions of clause (2) of article 95 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Speaker, or, as the case may be, the Deputy Speaker, is absent.

(2) The Speaker shall have the right to speak in, and otherwise to take part in the proceedings of, the House of the People while any resolution for his removal from office is under consideration in the House and shall, notwithstanding anything in article 100, be entitled to vote only in the first instance on such resolution or any other matter during such proceedings but not in the case of an equality of votes.

97. There shall be paid to the Chairman and the Deputy Chairman of the Council of States, and to the Speaker and the Deputy Speaker of the House of the People, such salaries and allowances as may be respectively fixed by Parliament by law and, until provision in that behalf is so made, such salaries and allowances as are specified in the Second Schedule.

98. (1) Each House of Parliament shall have a separate secretarial staff:

Provided that nothing in this clause shall be construed as preventing the creation of posts common to both Houses of Parliament.

(2) Parliament may by law regulate the recruitment, and the conditions of service of persons appointed, to the secretarial staff of either House of Parliament.

(3) Until provision is made by Parliament under clause (2), the President may, after consultation with the Speaker of the House of the People or the Chairman of the Council of States, as the case may be, make rules regulating the recruitment, and the conditions of service of persons appointed, to the secretarial staff of the House

of the People or the Council of States, and any rules so made shall have effect subject to the provisions of any law made under the said clause.

Conduct of Business

99. Every member of either House of Parliament shall, before taking his seat, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

Disqualifications of Members

101. (1) No person shall be a member of both Houses of Parliament and provision shall be made by Parliament by law for the vacation by a person who is chosen a member of both Houses of his seat in one House or the other.

(2) No person shall be a member both of Parliament and of a House of the Legislature of a State%***, and if a person is chosen a member both of Parliament and of a House of the Legislature of a †[a State], then, at the expiration of such period as may be specified in @ rules made by the President, that person's seat in Parliament shall become vacant, unless he has previously resigned his seat in the Legislature of the State.

102. (1) A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament—

- (a) if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law, not to disqualify its holder;
- (b) if he is of unsound mind and stands so declared by a competent court;
- (c) if he is an undischarged insolvent;
- (d) if he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgement of allegiance or adherence to a foreign State;

%The words and letters "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

†Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch., for "such a State".

@See the Prohibition of Simultaneous Membership Rules, 1950, published with the Ministry of Law Notification No. F. 46/50-C, dated the 26th January, 1950, Gazette of India, Extraordinary, p. 678.

(e) if he is so disqualified by or under any law made by Parliament.

(2) For the purposes of this article a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State by reason only that he is a Minister either for the Union or for such State.

104. If a person sits or votes as a member of either House of Parliament before he has complied with the requirements of article 99, or when he knows that he is not qualified or that he is disqualified for membership thereof, or that he is prohibited from so doing by the provisions of any law made by Parliament, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the Union.

Powers, Privileges and Immunities of Parliament and its Members

105. (1) Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of Parliament, there shall be freedom of speech in Parliament.

(2) No member of Parliament shall be liable to any proceedings in any court in respect of anything said or any vote given by him in Parliament or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings.

(3) In other respects, the powers, privileges and immunities of each House of Parliament, and of the members and the committees of each House, shall be such as may from time to time be defined by Parliament by law, and, until so defined, shall be those of the House of Commons of the Parliament of the United Kingdom, and of its Members and committees, at the commencement of this Constitution.

(4) The provisions of clauses (1), (2) and (3) shall apply in relation to persons who by virtue of this Constitution have the right to speak in, and otherwise to take part in the proceedings of, a House of Parliament or any committee thereof as they apply in relation to members of Parliament.

106. Members of either House of Parliament shall be entitled to receive such salaries and allowances as may from time to time be determined by Parliament by law and, until provision in that respect is so made, allowances at such rates and upon such conditions as were immediately before the commencement of this Constitution applicable in the case of members of the Constituent Assembly of the Dominion of India.

Legislative Procedure

107. (1). Subject to the provisions of articles 109 and 117 with respect to Money Bills and other financial Bills, a Bill may originate in either House of Parliament.

2. Subject to the provisions of articles 108 and 109, a Bill shall not be deemed to have been passed by the Houses of Parliament unless it has been agreed to by both Houses, either without amendment or with such amendments only as are agreed to by both Houses.

3. A Bill pending in Parliament shall not lapse by reason of the prorogation of the Houses.

4. A Bill pending in the Council of States which has not been passed by the House of the People shall not lapse on a dissolution of the House of the People.

5. A Bill which is pending in the House of the People, or which having been passed by the House of the People is pending in the Council of States, shall, subject to the provisions of article 108, lapse on a dissolution of the House of the People.

108. (1) If after a Bill has been passed by one House and transmitted to the other House—

- (a) the Bill is rejected by the other House; or
- (b) the Houses have finally disagreed as to the amendments to be made in the Bill; or
- (c) more than six months elapse from the date of the reception of the Bill by the other House without the Bill being passed by it.

the President may, unless the Bill has lapsed by reason of a dissolution of the House of the People, notify to the Houses by message if they are sitting or by public notification if they are not sitting, his intention to summon them to meet in a joint sitting for the purpose of deliberating and voting on the Bill:

Provided that nothing in this clause shall apply to a Money Bill.

(2) In reckoning any such period of six months as is referred to in clause (1), no account shall be taken of any period during which the House referred to in sub-clause (c) of that clause is prorogued or adjourned for more than four consecutive days.

(3) Where the President has under clause (1) notified his intention of summoning the Houses to meet in a joint sitting, neither House shall proceed further with the Bill, but the President may

at any time after the date of his notification summon the Houses to meet in a joint sitting for the purpose specified in the notification and, if he does so, the Houses shall meet accordingly.

(4) If at the joint sitting of the two Houses the Bill, with such amendments, if any, as are agreed to in joint sitting, is passed by a majority of the total number of members of both Houses present and voting, it shall be deemed for the purposes of their Constitution to have been passed by both Houses:

Provided that at a joint sitting—

- (a) if the Bill, having been passed by one House, has not been passed by the other House with amendments and returned to the House in which it originated, no amendment shall be proposed to the Bill other than such amendments (if any) as are made necessary by the delay in the passage of the Bill;
- (b) if the Bill has been so passed and returned, only such amendments as aforesaid shall be proposed to the Bill and such other amendments as are relevant to the matters with respect to which the Houses have not agreed;

and the decision of the person presiding as to the amendments which are admissible under this clause shall be final.

(5) A joint sitting may be held under this article and a Bill passed thereat, notwithstanding that a dissolution of the House of the People has intervened since the President notified his intention to summon the Houses to meet therein.

109. (1) A Money Bill shall not be introduced in the Council of States.

(2) After a Money Bill has been passed by the House of the People it shall be transmitted to the Council of States for its recommendations and the Council of States shall within a period of fourteen days from the date of its receipt of the Bill return the Bill to the House of the People with its recommendation and the House of the People may thereupon either accept or reject all or any of the recommendations of the Council of States.

(3) If the House of the People accepts any of the recommendations of the Council of States, the Money Bill shall be deemed to have been passed by both Houses with the amendments recommended by the Council of States and accepted by the House of the People.

(4) If the House of the People does not accept any of the recommendations of the Council of States, the Money Bill shall be deemed to have been passed by both Houses in the form in which it was passed by the House of the People without any of the amendments recommended by the Council of States.

(5) If a Money Bill passed by the House of the People and transmitted to the Council of States for its recommendations is not returned to the House of the People within the said period of fourteen days, it shall be deemed to have been passed by both Houses at the expiration of the said period in the form in which it was passed by the House of the People.

110. (1) For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely—

- (a) the imposition, abolition, remission, alteration or regulation of any tax;
- (b) the regulation of the borrowing of money or the giving of any guarantee by the Government of India, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of India;
- (c) the custody of the Consolidated Fund or the Contingency Fund of India, the payment of moneys into or the withdrawal of moneys from any such fund;
- (d) the appropriation of moneys out of the Consolidated Fund of India;
- (e) the declaring of any expenditure to the expenditure charged on the Consolidated Fund of India or the increasing of the amount of any such expenditure;
- (f) the receipt of money on account of the Consolidated Fund of India or the public account of India or the custody or issue of such money or the audit of the accounts of the Union or of a State; or
- (g) any matter incidental to any of the matters specified in sub-clauses (a) to (f).

(2) A Bill shall not be deemed to be a Money Bill 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, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) If any question arises whether a Bill is a Money Bill or not, the decision of the Speaker of the House of the People thereon shall be final.

(4) There shall be endorsed on every Money Bill when it is transmitted to the Council of States under article 109, and when it is presented to the President for assent under article 111, the certificate of the Speaker of the House of the People signed by him that it is a Money Bill.

111. When a Bill has been passed by the Houses of Parliament, it shall be presented to the President, and the President shall declare either that he assents to the Bill, or that he withholds assent therefrom:

Provided that the President may, as soon as possible after the 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 they will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message, and when a Bill is so returned, the Houses shall reconsider the Bill accordingly, and if the Bill is passed again by the Houses with or without amendment and presented to the President for assent, the President shall not withhold assent therefrom.

Procedure in Financial Matters

112. (1) The President shall in respect of every financial year cause to be laid before both the Houses of Parliament a statement of the estimated receipts and expenditure of the Government of India for that year, in this Part referred to as the "annual financial statement".

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

(a) the sums required to meet expenditure described by this Constitution as expenditure charged upon the Consolidated Fund of India; and

(b) the sums required to meet other expenditure proposed to be made from the Consolidated Fund of India,

and shall distinguish expenditure on revenue account from other expenditure.

113. (1) So much of the estimates as relates to expenditure charged upon the Consolidated Fund of India shall not be submitted

to the vote of Parliament, but nothing in this clause shall be construed as preventing the discussion in either House of Parliament of any of those estimates.

(2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the House of the People, and the House of the People shall have power to assent, or to refuse to assent, to any demand, or to assent to any demand subject to a reduction of the amount specified therein.

(3) No demand for a grant shall be made except on the recommendation of the President.

114. (1) As soon as may be after the grants under article 113 have been made by the House of the People, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of India of all moneys required to meet.—

- (a) the grants so made by the House of the People; and
- (b) the expenditure charged on the Consolidated Fund of India but not exceeding in any case the amount shown in the statement previously laid before Parliament.

Procedure Generally

118. (1) Each House of Parliament may make rules for regulating, subject to the provisions of this Constitution, its procedure and the conduct of its business.

119. Parliament may, for the purpose of the timely completion of financial business, regulate by law the procedure of, and the conduct of business in, each House of Parliament in relation to any financial matter or to any Bill for the appropriation of moneys out of the Consolidated Fund of India, and, if and so far as any provision of any law so made is inconsistent with any rule made by a House of Parliament under clause (1) of article 118 or with any rule of standing order having effect in relation to Parliament under clause (2) of that article, such provision shall prevail.

120. (1) Notwithstanding anything in Part XVII, but subject to the provisions of article 348, business in Parliament shall be transacted in Hindi or in English:

Provided that the Chairman of the Council of States or Speaker of the House of the People, or person acting as such, as the case may be, may permit any member who cannot adequately express himself in Hindi or in English to address the House in his mother tongue.

(2) Unless Parliament by law otherwise provides, this article shall after the expiration of a period of fifteen years from the commencement of this Constitution, have effect as if the words "or in English" were omitted therefrom.

121. No discussion shall take place in Parliament with respect to the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties except upon a motion for presenting an address to the President praying for the removal of the Judge as hereinafter provided.

122. (1) The validity of any proceedings in Parliament shall not be called in question on the ground of any alleged irregularity of procedure.

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

Chapter III—Legislative Powers of the President

123. (1) If at any time, except when both Houses of Parliament are in session, the President is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require.

(2) An Ordinance promulgated under this article shall have the same force and effect as an Act of Parliament, but every such Ordinance—

(a) shall be laid before both Houses of Parliament and shall cease to operate at the expiration of six weeks from the re-assembly of Parliament, or, if before the expiration of that period resolutions disapproving it are passed by both Houses, upon the passing of the second of those resolutions; and

(b) may be withdrawn at any time by the President.

Chapter IV—The Union Judiciary

124. (1) There shall be a Supreme Court of India consisting of a Chief Justice of India and, until Parliament by law prescribed a larger number, of not more than seven other Judges.

(2) Every Judge of the Supreme Court shall be appointed by the President by warrant under his hand and seal after consultation with

such of the Judges of the Supreme Court and of the High Courts in the States as the President may deem necessary for the purpose and shall hold office until he attains the age of sixty-five years;

(4) A Judge of the Supreme Court shall not be removed from his office except by an order of the President passed after an address by each House of Parliament supported by a majority of not less than two-thirds of the members of that House present and voting has been presented to the President in the same session for such removal on the ground of proved misbehaviour or incapacity.

(5) Parliament may by law regulate the procedure for the presentation of an address and for the investigation and proof of the misbehaviour or incapacity of a Judge under clause (4).

129. The Supreme Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself.

130. The Supreme Court shall sit in Delhi or in such other place or places, as the Chief Justice of India may, with the approval of the President, from time to time, appoint.

131. Subject to the provisions of this Constitution, the Supreme Court shall, to the exclusion of any other court, have original jurisdiction in any dispute—

- (a) between the Government of India and one or more States;
or
- (b) between the Government of India and any State or States on one side and one or more other States on the other;
or
- (c) between two or more States,

if and in so far as the dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends:

*[Provided that the said jurisdiction shall not extend to a dispute arising out of any treaty, agreement, covenant, engagement, *sanad* or other similar instrument which, having been entered into or executed before the commencement of this Constitution, continues in operation after such commencement, or which provides that the said jurisdiction shall not extend to such a dispute].

*Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 5, for the original proviso.

132. (1) An appeal shall lie to the Supreme Court from any judgment, decree or final order of a High Court in the territory of India, whether in a civil, criminal or other proceeding, if the High Court certifies that the case involves a substantial question of law as to the interpretation of this Constitution.

(2) Where the High Court has refused to give such a certificate, the Supreme Court may, if it is satisfied that the case involves a substantial question of law as to the interpretation of this Constitution, grant special leave to appeal from such judgment, decree or final order.

(3) Where such a certificate is given, or such leave is granted, any party in the case may appeal to the Supreme Court on the ground that any such question as aforesaid has been wrongly decided and, with the leave of the Supreme Court, on any other ground.

137. Subject to the provisions of any law made by Parliament or any rules made under article 145, the Supreme Court shall have power to review any judgment pronounced or order made by it.

138. (1) The Supreme Court shall have such further jurisdiction and powers with respect to any of the matters in the Union List as Parliament may by law confer.

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

*139. Parliament may by law confer on the Supreme Court power to issue directions, orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari*, or any of them, for any purposes other than those mentioned in clause (2) of article 32.

141. The law declared by the Supreme Court shall be binding on all courts within the territory of India.

Chapter V—Comptroller and Auditor-General of India

148. (1) There shall be a Comptroller and Auditor-General of India who shall be appointed by the President by warrant under his hand and seal and shall only be removed from office in like manner and on the like grounds as a Judge of the Supreme Court.

*Arts. 136 and 139 shall not apply to the State of Jammu and Kashmir.

*149. The Comptroller and Auditor-General shall perform such duties and exercise such powers in relation to the accounts of the Union and of the States and of any other authority or body as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, shall perform such duties and exercise such powers in relation to the accounts of the Union and of the States as were conferred on or exercisable by the Auditor-General of India immediately before the commencement of this Constitution in relation to the accounts of the Dominion of India and of the Provinces respectively.

*150. The accounts of the Union and of the States shall be kept in such form as the Comptroller and Auditor-General of India may, with the approval of the President, prescribe.

151. (1) The reports of the Comptroller and Auditor-General of India relating to the accounts of the Union shall be submitted to the President, who shall cause them to be laid before each House of Parliament.

†(2) The reports of the Comptroller and Auditor-General of India relating to the accounts of a State shall be submitted to the Governor @* * * of the State, who shall cause them to be laid before the Legislature of the State.

PART VI

THE STATES! * * *

Chapter I—General

152. In this Part, unless the context otherwise requires, the expression "State" ‡[does not include the State of Jammu and Kashmir.]

Chapter II—The Executive

The Governor

153. There shall be a Governor for each State:

§[Provided that nothing in this article shall prevent the appointment of the same person as Governor for two or more States.]

*In arts. 149 and 150 references to States shall be constructed as not including the State of Jammu and Kashmir.

†In its application to the State of Jammu and Kashmir, in art. 151, cl. (2) shall be omitted.

@The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

!The words "IN PART A OF THE FIRST SCHEDULE" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

‡Subs., *ibid.*, for "means a State specified in Part A of the First Schedule."

§Added by s. 6, *ibid.*

154. (1) The executive power of the State shall be vested in the Governor and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution.

155. The Governor of a State shall be appointed by the President by warrant under his hand and seal.

156. (1) The Governor shall hold office during the pleasure of the President.

157. No person shall be eligible for appointment as Governor unless he is a citizen of India and has completed the age of thirty-five years.

158. (1) The Governor shall not be a member of either House of Parliament or of a House of the Legislature of any State specified in the First Schedule, and if a member of either House of Parliament or of a House of the Legislature of any such State be appointed Governor, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as Governor.

*[(3A) Where the same person is appointed as Governor of two or more States, the emoluments and allowances payable to the Governor shall be allocated among the States in such proportion as the President may by order determine.]

(4) The emoluments and allowances of the Governor shall not be diminished during his term of office.

162. Subject to the provisions of this Constitution, the executive power of a State shall extend to the matters with respect to which the Legislature of the State has power to make laws.

Council of Ministers

163. (1) There shall be a Council of Ministers with the Chief Minister at the head to aid and advise the Governor in the exercise of his functions, except in so far as he is by or under this Constitution required to exercise his functions or any of them in his discretion.

(2) If any question arises whether any matter is or is not a matter as respects which the Governor is by or under this Constitution required to act in his discretion, the decision of the Governor

*Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 7.

in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in his discretion.

(3) The question whether any, and if so what, advice was tendered by Ministers to the Governor shall not be inquired into in any court.

The Advocate-General for the State

165. (1) The Governor of each State shall appoint a person who is qualified to be appointed a Judge of a High Court to be Advocate-General for the State.

(2) It shall be the duty of the Advocate-General to give advice to the Government of the State upon such legal matters, and to perform such other duties of a legal character, as may from time to time be referred or assigned to him by the Governor, and to discharge the functions conferred on him by or under this Constitution or any other law for the time being in force.

(3) The Advocate-General shall hold office during the pleasure of the Governor, and shall receive such remuneration as the Governor may determine.

Conduct of Government Business

166. (1) All executive action of the Government of a State shall be expressed to be taken in the name of the Governor.

167. It shall be the duty of the Chief Minister of each State—

- (a) to communicate to the Governor of the State all decisions of the Council of Ministers relating to the administration of the affairs of the State and proposals for legislation;
- (b) to furnish such information relating to the administration of the affairs of the State and proposals for legislation as the Governor may call for; and
- (c) if the Governor so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council.

Chapter III—The State Legislature

168. (1) For every State there shall be a Legislature which shall consist of the Governor, and

(a) in the States of Bihar, Bombay, *[Madhya Pradesh], Madras, *[Mysore], Punjab, @[Uttar Pradesh] and West Bengal, two Houses;

(b) in other States, one House.

(2) Where there are two Houses of the Legislature of a State, one shall be known as the Legislative Council and the other as the Legislative Assembly, and where there is only one House, it shall be known as the Legislative Assembly.

‡[170. (1) Subject to the provisions of article 333, the Legislative Assembly of each State shall consist of not more than five hundred, and not less than sixty, members chosen by direct election from territorial constituencies in the State.

171. (1) The total number of members in the Legislative Council of a State having such a Council shall not exceed %[one-third] of the total number of members in the Legislative Assembly of that State:

Provided that the total number of members in the Legislative Council of a State shall in no case be less than forty.

172. (1) Every Legislative Assembly of every State, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer and the expiration of the said period of five years shall operate as a dissolution of the assembly.

(2) The Legislative Council of a State shall not be subject to dissolution, but as nearly as possible one-third of the members thereof shall retire as soon as may be on the expiration of every second year in accordance with the provisions made in that behalf by Parliament by law.

*Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 8 (when notified).

@Subs. by the Constitution (Amendment of the First and Fourth Schedules) Order, 1950 (C.O. 3, dated the 25th January, 1950) for "the United Provinces".

‡Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 9, for the original article.

%Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 10, for "one-fourth".

*[174. (1) The Governor shall from time to time summon the House or each House of the Legislature of the State to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

(2) The Governor may from time to time—

- (a) prorogue the House or either House;
- (b) dissolve the Legislative Assembly.]

176. (1) At the commencement of †[the first session after each general election to the Legislative Assembly and at the commencement of the first session of each year] the Governor shall address the Legislative Assembly or, in the case of a State having a Legislative Council, both Houses assembled together and inform the Legislature of the causes of its summons.

(2) Provision shall be made by the rules regulating the procedure of the House or either House for the allotment of time for discussion of the matters referred to in such address%***.

201. When a Bill is reserved by a Governor for the consideration of the President, the President shall declare either that he assents to the Bill or that he withholds assent therefrom.

Chapter IV—Legislative Power of the Governor

213. (1) If at any time, except when the Legislative Assembly of a State is in session, or where there is a Legislative Council in a State, except when both Houses of the Legislature are in session, the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require.

Chapter V—The High Courts in the States

214. 1***There shall be a High Court for each State.

1* * * * *

215. Every High Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself.

*Subs. by the Constitution (First Amendment) Act, 1951, s. 8, for the original article.

†Subs. by s. 9, *ibid.*, for "every session."

%The words "and for the precedence of such discussion over other business of the House" were omitted by the Constitution (First Amendment) Act, 1951, s. 9.

¹The brackets and figure "(1)" and cls. (2) and (3) omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

216. Every High Court shall consist of a Chief Justice and such other Judges as the President may from time to time deem it necessary to appoint:

! * * * * *

217. (1) Every Judge of a High Court shall be appointed by the President by warrant under his hand and seal after consultation with the Chief justice of India, the Governor of the State, and, in the case of appointment of a judge other than the Chief Justice, the Chief Justice of the High Court, and @[shall hold office, in the case of an additional or acting Judge, as provided in article 224, and in any other case, until he attains the age of sixty years.]

218. The provisions of clauses (4) and (5) of article 124 shall apply in relation to a High Court as they apply in relation to the Supreme Court with the substitution of references to the High Court for references to the Supreme Court.

*[220. No person who, after the commencement of this Constitution, has held office as a permanent Judge of a High Court shall plead or act in any court or before any authority in India except the Supreme Court and the other High Courts.]

‡[224. (1) If by reason of any temporary increase in the business of a High Court or by reason of arrears of work therein, it appears to the President that the number of the Judges of that Court should be for the time being increased, the President may appoint duly qualified persons to be additional Judges of the Court for such period not exceeding two years as he may specify.

226. (1) Notwithstanding anything in article 32, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases any Government, within those territories directions, orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, prohibition *quo warranto* and *certiorari*, or any or them, for the enforcement of any of the rights conferred by Part III and for any other purpose.

¹Proviso omitted by the Constitution (Seventh Amendment) Act, 1956, s. 11.

@Subs. by s. 12, *ibid.*, for "shall hold office until he attains the age of sixty years."

*Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 13 and Sch., for the original art. 220.

‡Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 15, for the original art. 224.

(2) The power conferred on a High Court by clause (1) shall not be in derogation of the power conferred on the Supreme Court by clause (2) of article 32.

227. (1) Every High Court shall have superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction.

*[230. (1) Parliament may by law extend the jurisdiction of a High Court to, or exclude the jurisdiction of a High Court from any Union territory.

PART VIII

**[THE UNION TERRITORIES]

%[239. (1) Save as otherwise provided by Parliament by law, every Union territory shall be administered by the President acting, to such extent as he thinks fit, through an administrator to be appointed by him with such designation as he may specify.

240. (1) The President may make regulations for the peace, progress and good government of the Union territory of—

- (a) the Andaman and Nicobar Islands;
- (b) the Laccadive, Minicoy and Amindivi Islands.

(2) Any regulation so made may repeal or amend any Act made by Parliament or any existing law which is for the time being applicable to the Union territory and, when promulgated by the President, shall have the same force and effect as an Act of Parliament which applies to that territory.

PART X†

THE SCHEDULED AND TRIBAL AREAS

244. (1) The provisions of the Fifth Schedule shall apply to the administration and control of the Scheduled Areas and Scheduled Tribes in any State†***other than the State of Assam.

(2) The provisions of the Sixth Schedule shall apply to the administration of the tribal areas in the State of Assam.

*Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 16, for the original arts. 230, 231 and 232.

**Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 17 for the original heading "THE STATES IN PART C OF THE FIRST SCHEDULE."

%Subs., *ibid.*, for the original arts. 239 and 240.

†Not applicable to the State of Jammu and Kashmir.

‡The words and letters "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

PART XI

RELATIONS BETWEEN THE UNION AND THE STATES

Chapter I—Legislative Relations

Distribution of Legislative Powers

245. (1) Subject to the provisions of this Constitution, Parliament may make laws for the whole or any part of the territory of India, and the Legislature of a State may make laws for the whole or any part of the State.

(2) No law made by Parliament shall be deemed to be invalid on the ground that it would have extra-territorial operation:

*246. (1) Notwithstanding anything in clauses (2) and (3), Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule (in this Constitution referred to as the "Union List").

(2) Notwithstanding anything in clause (3), Parliament, and, subject to clause (1) the Legislature of any State @***also, have power to make laws with respect to any of the matters enumerated in List III in the Seventh Schedule (in this Constitution referred to as the "Concurrent List").

(3) Subject to clauses (1) and (2), the Legislature of any State @***has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule (in this Constitution referred to as the "State List").

(4) Parliament has power to make laws with respect to any matter for any part of the territory of India not included †[in a State] notwithstanding that such matter is a matter enumerated in the State List.

247. Notwithstanding anything in this Chapter, Parliament may by law provide for the establishment of any additional courts for the better administration of laws made by Parliament or of any existing laws with respect to a matter enumerated in the Union List.

*In its application to the State of Jammu and Kashmir, in art. 246, the words, brackets and figures "Notwithstanding anything in clauses (2) and (3)" occurring in cl. (1), and cls. (2), (3) and (4) shall be omitted.

@The words and letters "specified in Part A or Part B of the First Schedule", omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

†Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch., for "in Part A or Part B of the First Schedule".

*248. (1) Parliament has exclusive power to make any law with respect to any matter not enumerated in the Concurrent List or State List.

(2) Such power shall include the power of making any law imposing a tax not mentioned in either of those Lists.

*249. (1) Notwithstanding anything in the foregoing provisions of this Chapter, if the Council of States has declared by resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest that Parliament should make laws with respect to any matter enumerated in the State List specified in the resolution, it shall be lawful for Parliament to make laws for the whole or any part of the territory of India with respect to that matter while the resolution remains in force.

250. (1) Notwithstanding anything in this Chapter, Parliament shall, while a Proclamation of Emergency is in operation, have power to make laws for the whole or any part of the territory of India with respect to any of the matters enumerated in the State List.

(2) A law made by Parliament which Parliament would not but for the issue of a Proclamation of Emergency have been competent to make shall, to the extent of the incompetency, cease to have effect on the expiration of a period of six months after the Proclamation has ceased to operate, except as respects things done or omitted to be done before the expiration of the said period.

251. Nothing in articles 249 and 250 shall restrict the power of the Legislature of a State to make any law which under this Constitution it has power to make, but if any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament has under either of the said articles power to make, the law made by Parliament, whether passed before or after the law made by the Legislature of the State, shall prevail, and the law made by the Legislature of the State shall to the extent of the repugnancy, but so long only as the law made by Parliament continues to have effect, be inoperative

253. Notwithstanding anything in the foregoing provisions of this Chapter, Parliament has power to make any law for the whole or any part of the territory of India 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.

*Arts. 248 and 249 shall not apply to the State of Jammu and Kashmir.

254. (1) If any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of an existing law with respect to one of the matters enumerated in the Concurrent List, then subject to the provisions of clause (2), the law made by Parliament, whether passed before or after the law made by the Legislature of such State, or, as the case may be, the existing law, shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void.

(2) Where a law made by the Legislature of State † * * * with respect to one of the matters enumerated in the Concurrent List contains any provision repugnant to the provisions of an earlier law made by Parliament or an existing law with respect to that matter, then the law so made by the Legislature of such States shall, if it has been reserved for the consideration of the President and has received his assent, prevail in that State.

‡255. No Act of Parliament or of the Legislature of a State † * * * and no provision in any such Act, shall be invalid by reason only that some recommendation or previous sanction required by this Constitution was not given, if assent to that Act was given—

- (a) where the recommendation required was that of the Governor, either by the Governor or by the President;
- (b) where the recommendation required was that of the Rajpramukh, either by the Rajpramukh or by the President;
- (c) where the recommendation or previous sanction required was that of the President, by the President.

Chapter II—Administrative Relations

General

256. The executive power of every State shall be so exercised as to ensure compliance with the laws made by Parliament and any existing laws which apply in that State, and the executive power of the Union shall extend to the giving of such directions to a State as may appear to the Government of India to be necessary for that purpose.

257. (1) The executive power of every State shall be so exercised as not to impede or prejudice the exercise of the executive power of

†The words and letters "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

‡Art. 255 shall not apply to the State of Jammu and Kashmir.

the Union, and the executive power of the Union shall extend to the giving of such directions to a State as may appear to the Government of India to be necessary for that purpose.

(2) The executive power of the Union shall also extend to the giving of directions to a State as to the construction and maintenance of means of communication declared in the direction to be of national or military importance:

Provided that nothing in this clause shall be taken as restricting the power of Parliament to declare highways or waterways to be national highways or national waterways or the power of the Union with respect to the highways or waterways so declared or the power of the Union to construct and maintain means of communication as part of its functions with respect to naval, military and air force works.

(3) The executive power of the Union shall also extend to the giving of directions to a State as to the measures to be taken for the protection of the railways within the State.

(4) Where in carrying out any direction given to a State under clause (2) as to the construction or maintenance of any means of communication or under clause (3) 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 State if such direction had not been given, there shall be paid by the Government of India to the State such sum as may be agreed, or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India, in respect of the extra costs so incurred by the State.

258. (1) Notwithstanding anything in this Constitution, the President may, with the consent of the Government of a State, entrust either conditionally or unconditionally to that Government or to its officers functions in relation to any matter to which the executive power of the Union extends.

(2) A law made by Parliament which applies in any State may, notwithstanding that it relates to a matter with respect to which the Legislature of the State has no power to make laws, confer powers and impose duties, or authorise the conferring of powers and the imposition of duties, upon the State or officers and authorities thereof.

(3) Where by virtue of this article powers and duties have been conferred or imposed upon a State or officers or authorities thereof, there shall be paid by the Government of India to the State such

sum as may be agreed, or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India, in respect of any extra costs of administration incurred by the State in connection with the exercise of those powers and duties.

*[258A. Notwithstanding anything in this Constitution, the Governor of a State may, with the consent of the Government of India, entrust either conditionally or unconditionally to that Government or to its officers functions in relation to any matter to which the executive power of the State extends.]

259. [Armed Forces in States in Part B of the First Schedule.]
Rep. by the Constitution (Seventh Amendment) Act, 1956, s. 229 and Sch.

Co-ordination between States

263. If at any time it appears to the President that the public interests would be served by the establishment of a Council charged with the duty of—

- (a) inquiring into and advising upon disputes which may have arisen between States;
- (b) investigating and discussing subjects in which some or all of the States, or the Union and one or more of the States, have a common interest; or
- (c) making recommendations upon any such subject and, in particular, recommendations for the better co-ordination of policy and action with respect to that subject,

it shall be lawful for the President by order to establish such a Council, and to define the nature of the duties to be performed by it and its organisation and procedure.

PART XII

FINANCE, PROPERTY, CONTRACTS AND SUITS

Chapter I—Finance

General

†[264. In this Part, "Finance Commission" means a Finance Commission constituted under article 280.]

265. No tax shall be levied or collected except by authority of law.

*Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 18.

†Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch., for the original art. 264.

266. (1) Subject to the provisions of article 267 and to the provisions of this Chapter with respect to the assignment of the whole or part of the net proceeds of certain taxes and duties to States, all revenues received by the Government of India, all loans raised by that Government by the issue of treasury bills, loans or ways and means advances and all moneys received by that Government in repayment of loans shall form one consolidated fund to be entitled "the Consolidated Fund of India", and all revenues received by the Government of a State, all loans raised by that Government by the issue of treasury bills, loans or ways and means advances and all moneys received by that Government in repayment of loans shall form one consolidated fund to be entitled "the Consolidated Fund of the State."

(2) All other public moneys received by or on behalf of the Government of India or the Government of a State shall be credited to the public account of the State, as the case may be.

(3) No moneys out of the Consolidated Fund of India or the Consolidated Fund of a State shall be appropriated except in accordance with law and for the purposes and in the manner provided in this Constitution.

267. (1) Parliament may by law establish a Contingency Fund in the nature of an imprest to be entitled "the Contingency Fund of India" into which shall be paid from time to time such sums as may be determined by such law, and the said Fund shall be placed at the disposal of the President to enable advances to be made by him out of such Fund for the purposes of meeting unforeseen expenditure pending authorisation of such expenditure by Parliament by law under article 115 or article 116.

(2) The Legislature of a State may by law establish a Contingency Fund in the nature of an imprest to be entitled "the Contingency Fund of the State" into which shall be paid from time to time such sums as may be determined by such law, and the said Fund shall be placed at the disposal of the Governor †*** of the State to enable advances to be made by him out of such Fund for the purposes of meeting unforeseen expenditure pending authorisation of such expenditure by the Legislature of the State by law under article 205 or article 206.

*This clause shall not apply to the State of Jammu and Kashmir.

†The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

Distribution of Revenues between the Union and the States

268. (1) Such stamp duties and such duties of excise on medicinal and toilet preparations as are mentioned in the Union List shall be levied by the Government of India but shall be collected—

- (a) in the case where such duties are leviable within any ‡[Union territory], by the Government of India, and
- (b) in other cases, by the States within which such duties are respectively leviable.

(2) The proceeds in any financial year of any such duty leviable within any State shall not form part of the Consolidated Fund of India, but shall be assigned to that State.

270. (1) Taxes on income other than agricultural income shall be levied and collected by the Government of India and distributed between the Union and the States in the manner provided in clause (2).

280. (1) The President shall, within two years from the commencement of this Constitution and thereafter at the expiration of every fifth year or at such earlier time as the President considers necessary, by order constitute a Finance Commission which shall consist of a Chairman and four other members to be appointed by the President.

Chapter II—Borrowing

292. The executive power of the Union extends to borrowing upon the security of the Consolidated Fund of India within such limits, if any, as may from time to time be fixed by Parliament by law and to the giving of guarantees within such limits, if any, as may be so fixed.

293. (1) Subject to the provisions of this article, the executive power of a State extends to borrowing within the territory of India upon the security of the Consolidated Fund of the State within such limits, if any, as may from time to time be fixed by the Legislature of such State by law and to the giving of guarantees within such limits, if any, as may be so fixed.

PART XIII**TRADE, COMMERCE AND INTERCOURSE WITHIN THE TERRITORY OF INDIA**

301. Subject to the other provisions of this Part, trade commerce and intercourse throughout the territory of India shall be free.

‡Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch., for "State specified in Part C of the First Schedule."

302. Parliament may by law impose such restrictions on the freedom of trade, commerce or intercourse between one State and another or within any part of the territory of India as may be required in the public interest.

303. (1) Notwithstanding anything in article 302, neither Parliament nor the Legislature of a State shall have power to make any law giving, or authorising the giving of, any preference to one State over another or making, or authorising the making of, any discrimination between one State and another, by virtue of any entry relating to "trade" and commerce in any of the Lists in the Seventh Schedule.

304. Notwithstanding anything in article 301 or article 303, the Legislature of a State may by law—

- (a) impose on goods imported from other States * [or the Union territories] any tax to which similar goods manufactured or produced in that State are subject, so, however, as not to discriminate between goods so imported and goods so manufactured or produced; and
- (b) impose such reasonable restrictions on the freedom of trade, commerce or intercourse with or within that State as may be required in the public interest:

Provided that no Bill or amendment for the purposes of clause (b) shall be introduced or moved in the Legislature of a State without the previous sanction of the President.

**[305. Nothing in articles 301 and 303 shall affect the provisions of any existing law except in so far as the President may by order otherwise direct; and nothing in article 301 shall affect the operation of any law made before the commencement of the Constitution (Fourth Amendment) Act, 1955, in so far as it relates to, or prevent Parliament or the Legislature of State from making any law relating to any such matter as is referred to in sub-clause (ii) of clause (6) of article 19].

PART XIV

SERVICES UNDER THE UNION AND THE STATES

Chapter I—Services

309. Subject to the provisions of this Constitution, Acts of the appropriate Legislature may regulate the recruitment, and

*Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

**Subs. by the Constitution (Fourth Amendment) Act, 1955, s. 4.

conditions of service of persons appointed, to public services and posts in connection with the affairs of the Union or of any State.

310. (1) Except as expressly provided by this Constitution, every person who is a member of a defence service or of a civil service of the Union or of an all-India service or holds any post connected with defence or any civil post under the Union, holds office during the pleasure of the President, and every person who is a member of a civil service of a State or holds any civil post under a State holds office during the pleasure of the Governor †*** of the State.

(2) Notwithstanding that a person holding a civil post under the Union or a State holds office during the pleasure of the President or, as the case may be, of the Governor †*** of the State, any contract under which a person, not being a member of a defence service or of an all-India service or of a civil service of the Union or a State, is appointed under this Constitution to hold such a post may, if the President or the Governor †*** as the case may be, deems it necessary in order to secure the services of a person having special qualifications, provide for the payment to him of compensation, if before the expiration of an agreed period that post is abolished or he is, for reasons not connected with any misconduct on his part, required to vacate that post.

311. (1) No person who is a member of a civil service of the Union or an all-India service or a civil service of a State or holds a civil post under the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed.

(2) No such person as aforesaid shall 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 shall not apply—

- (a) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge;
- (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; or

†The words "or, as the case may be, the Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

‡The words "or the Rajpramukh" omitted, *ibid.*

- (c) where the President or Governor †***, as the case may be, is satisfied that in the interest of the security of the State it is not expedient to give to that person such an opportunity.

(3) If any question arises whether it is reasonably practicable to give to any person an opportunity of showing cause under clause (2), the decision thereon of the authority empowered to dismiss or remove such person or to reduce him in rank, as the case may be, shall be final.

Chapter II—Public Service Commissions

315. (1) Subject to the provisions of this article, there shall be a Public Service Commission for the Union and a Public Service Commission for each State.

320. (1) It shall be the duty of the Union and the State Public Service Commissions to conduct examinations for appointments to the services of the Union and the services of the State respectively.

323. (1) It shall be the duty of the Union Commission to present annually to the President a report as to the work done by the Commission and on receipt of such report the President shall 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 Parliament.

PART XV

ELECTIONS

324. (1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to Parliament and to the Legislature of every State and of elections to the offices of President and Vice-President held under this Constitution, including the appointment of election tribunals for the decision of doubts and disputes arising out of or in connection with elections to Parliament and to the Legislatures of States shall be vested in a Commission (referred to in this Constitution as the Election Commission.)

(2) The Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the President may from time to time fix and the appointment

†The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

of the Chief Election Commissioner and other Election Commissioners shall, subject to the provisions of any law made in that behalf by Parliament, be made by the President.

(3) When any other Election Commissioner is so appointed the Chief Election Commissioner shall act as the Chairman of the Election Commission.

(4) Before each general election to the House of the People and to the Legislative Assembly of each State, and before the first general election and thereafter before each biennial election to the Legislative Council of each State having such Council the President may also 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 clause (1).

(5) Subject to the provisions of any law made by Parliament, the conditions of service and tenure of office of the Election Commissioners and the Regional Commissioners shall be such as the President may by rule determine.

325. There shall be one general electoral roll for every territorial constituency for election to either House of Parliament or to the House or either House of the Legislature of a State and no person shall be ineligible for inclusion in any such roll or claim to be included in any special electoral roll for any such constituency on grounds only of religion, race, caste, sex or any of them.

326. The elections to the House of the People and to the Legislative Assembly of every State shall be on the basis of audit suffrage; that is to say, every person who is a citizen of India and who is not less than twenty-one years of age on such date as may be fixed in that behalf by or under any law made by the appropriate Legislature and is not otherwise disqualified under this Constitution on any law made by the appropriate Legislature on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice, shall be entitled to be registered as a voter at any such election.

327. Subject to the provisions of this Constitution, Parliament 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 Parliament or to the House or either House of the Legislature of a State including the preparation of electoral rolls, the delimitation of constituencies and all other matters necessary for securing the due constitution of such House or Houses.

328. Subject to the provisions of this Constitution and in so far as provision in that behalf is not made by Parliament, the Legislature of a State may from time to time by law make provision with respect to all matters relating to, or in connection with, the elections to the House or either House of the Legislature of the State including the preparation of electoral rolls and all other matters necessary for securing the due constitution of such House or Houses.

PART XVI

SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES

330. (1) Seats shall be reserved in the House of the People for—

- (a) the Scheduled Castes;
- (b) the Scheduled Tribes except the Scheduled Tribes in the tribal areas of Assam; and
- (c) the Scheduled Tribes in the autonomous districts of Assam.

(2) The number of seats reserved in any State *[or Union territory] for the Scheduled Castes or the Scheduled Tribes under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats allotted to that State *[or Union Territory] in the House of the People as the population of the Scheduled Castes in the State *[or Union territory] or of the Scheduled Tribes in the State *[or Union territory] or part of the State *[or Union territory], as the case may be, in respect of which seats are so reserved, bears to the total population of the State *[or Union territory].

331. Notwithstanding anything in article 81, the President may, if he is of opinion that the Anglo-Indian community is not adequately represented in the House of the People, nominate not more than two members of that community to the House of the People.

332. (1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes, except the Scheduled Tribes in the tribal areas of Assam, in the Legislative Assembly of every State.

(2) Seats shall be reserved also for the autonomous districts in the Legislative Assembly of the State of Assam.

*Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

(3) The number of seats reserved for the Scheduled Castes or the Scheduled Tribes in the Legislative Assembly of any State under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats in the Assembly as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State or part of the State, as the case may be, in respect of which seats are so reserved, bears to the total population of the State.

(4) The number of seats reserved for an autonomous district in the Legislative Assembly of the State of Assam shall bear to the total number of seats in that Assembly a proportion not less than the population of the district bears to the total population of the State.

333. Notwithstanding anything in article 170, the Governor of a State, may, if he is of opinion that the Anglo-Indian community needs representation in the Legislative Assembly of the State and is not adequately represented therein, nominate such number of members of the community to the Assembly as he consider appropriate.

335. The claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State.

338. (1) There shall be a Special Officer for the Scheduled Castes and Scheduled Tribes to be appointed by the President.

(2) It shall be the duty of the Special Officer to investigate all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under this Constitution and report to the President upon the working of those safeguards at such intervals as the President may direct, and the President shall cause all such reports to be laid before each House of Parliament.

(3) In this article, references to the Scheduled Castes and Scheduled Tribes shall be construed as including references to such other backward classes as the President may, on receipt of the report of a Commission appointed under clause (1) of article 340, by order specify and also to the Anglo-Indian community.

339. (1) The President may at any time and shall, at the expiration of ten years from the commencement of this Constitution by order appoint a Commission to report on the administration of the Scheduled Areas and the welfare of the Scheduled Tribes in the States.

340. (1) The President may by order appoint a Commission consisting of such persons as he thinks fit to investigate the conditions of socially and educationally backward classes within the territory of India and the difficulties under which they labour and to make recommendations as to the steps that should be taken by the Union or any State to remove such difficulties and to improve their condition and as to the grants that should be made for the purpose by the Union or any State and the conditions subject to which such grants should be made, and the order appointing such Commission shall define the procedure to be followed by the Commission.

341. (1) The President *[may with respect to any State % [or Union territory], and where it is a State @***, after consultation with the Governor† thereof], by public notification, specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State % [or Union territory, as the case may be.]

(2) Parliament may by law include in or exclude from the list of Scheduled Castes specified in a notification issued under clause (1) any caste, race or tribe or part of or group within any caste, race or tribe, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

342. (1) The President †[may with respect to any State or Union territory], and where it is a State £***, after consultation with the Governor †*** thereof], by public notification, specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for the purposes of this Constitution be deemed to be Scheduled Tribes in relation to the State ** [or Union territory, as the case may be.]

*Subs. by the Constitution (First Amendment) Act, 1951, s. 10, for "may, after consultation with the Governor or Rajpramukh of a State."

%Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

@The words and letters "specified in Part A or Part B of the First Schedule" omitted, *ibid*.

†The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

‡Subs. by the Constitution (First Amendment) Act, 1951, s. 11, for "may, after consultation with the Governor or Rajpramukh of a State."

£The words and letters "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

**Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

(2) Parliament may by law include in or exclude from the list of Scheduled Tribes specified in a notification issued under clause (1) any tribe or tribal community or part of or group within any tribe or tribal community, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

PART XVII

OFFICIAL LANGUAGE

Chapter I—Language of the Union

343. (1) The official language of the Union shall be Hindi in Devanagari script.

The form of numerals to be used for the official purposes of the Union shall be the international form of Indian numerals.

(2) Notwithstanding anything in clause (1), for a period of fifteen years from the commencement of this Constitution, the English language shall continue to be used for all the official purposes of the Union for which it was being used immediately before such commencement:

Provided that the President may, during the said period, by order authorise the use of the Hindi language in addition to the English language and of the Devanagari form of numerals in addition to the international form of Indian numerals for any of the official purposes of the Union.

(3) Notwithstanding anything in this article, Parliament may by law provide for the use, after the said period of fifteen years, of—

- (a) the English language, or
- (b) the Devanagari form of numerals,

for such purposes as may be specified in the law.

344. (1) The President shall, at the expiration of five years from the commencement of this Constitution and thereafter at the expiration of ten years from such commencement, by order constitute a Commission which shall consist of a Chairman and such other members representing the different languages specified in the Eighth Schedule as the President may appoint, and the order shall define the procedure to be followed by the Commission.

Chapter II—Regional Languages

345. Subject to the provisions of articles 346 and 347, the Legislature of a State may by law adopt any one or more of the languages

in use in the State or Hindi as the language or languages to be used for all or any of the official purposes of that State:

Provided that, until the Legislature of the State otherwise provides by law, the English language shall continue to be used for those official purposes within the State for which it was being used immediately before the commencement of this Constitution.

PART XVIII

EMERGENCY PROVISIONS

352. (1) If the President is satisfied that a grave emergency exists whereby the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance, he may, by Proclamation, make a declaration to that effect.

(2) A Proclamation issued under clause (1)—

- (a) may be revoked by a subsequent Proclamation;
- (b) shall be laid before each House of Parliament;
- (c) shall cease to operate at the expiration of two months unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament:

Provided that if any such Proclamation is issued at a time when the House of the People has been dissolved or the dissolution of the House of the People takes place during the period of two months referred to in sub-clause (c), and if a resolution approving the Proclamation has been passed by the Council of States, but no resolution with respect to such Proclamation has been passed by the House of the People before the expiration of that period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution unless before the expiration of the said period of thirty days a resolution approving the Proclamation has been also passed by the House of the People.

(3) A Proclamation of Emergency declaring that the security of India or of any part of the territory thereof is threatened by war or by external aggression or by internal disturbance may be made before the actual occurrence of war or of any such aggression or disturbance if the President is satisfied that there is imminent danger thereof.

353. While a Proclamation of Emergency is in operation, then—

- (a) notwithstanding anything in this Constitution, the executive power of the Union shall extend to the giving of

directions to any State as to the manner in which the executive power thereof is to be exercised;

- (b) the power of Parliament to make laws with respect to any matter shall include power to make laws conferring powers and imposing duties, or authorising the conferring of powers and the imposition of duties, upon the Union or officers and authorities of the Union as respects that matter, notwithstanding that it is one which is not enumerated in the Union List.

354. (1) The President may, while a Proclamation of Emergency is in operation, by order direct that all or any of the provisions of articles 268 to 279 shall for such period, not extending in any case beyond the expiration of the financial year in which such Proclamation ceases to operate, as may be specified in the order, have effect subject to such exceptions or modifications as he thinks fit.

(2) Every order made under clause (1) shall, as soon as may be after it is made, be laid before each House of Parliament.

355. It shall be the duty of the Union to protect every State against external aggression and internal disturbance and to ensure that the government of every State is carried on in accordance with the provisions of this Constitution.

356. (1) If the President, on receipt of a report from the Governor %*** of a State or otherwise, is satisfied that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of this Constitution, the President may by Proclamation—

- (a) assume to himself all or any of the functions of the Government of the State and all or any of the powers vested in or exercisable by the Governor @*** or any body or authority in the State other than the Legislature of the State;
- (b) declare that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament;
- (c) make such incidental and consequential provisions as appear to be necessary or desirable for giving effect to the objects of the Proclamation, including provisions for suspending in whole or in part the operation of any provisions of this Constitution relating to any body or authority in the State.

%The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

@The words "or Rajpramukh, as the case may be," omitted, *ibid*.

360. (1) If the President is satisfied that a situation has arisen whereby the financial stability or credit of India or of any part of the territory thereof is threatened, he may by a Proclamation make a declaration to that effect.

PART XIX

MISCELLANEOUS

367. (1) Unless the context otherwise requires the General Clauses Act, 1897, shall, subject to any adaptations and modifications that may be made therein under article 372, apply for the interpretation of this Constitution as it applies for the interpretation of an Act of the Legislature of the Dominion of India.

PART XX

AMENDMENT TO THE CONSTITUTION

368. An amendment of this Constitution may be initiated only by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting, it shall be presented to the President for his assent and upon such assent being given to the Bill, the Constitution shall stand amended in accordance with the terms of the Bill:

Provided that if such amendment seeks to make any change in—

- (a) article 54, article 55, article 73, article 162 or article 241,
or
- (b) Chapter IV of Part V, Chapter V of Part VI, or Chapter I of Part XI, or
- (c) any of the Lists in the Seventh Schedule, or
- (d) the representation of States in Parliament, or
- (e) the provisions of this article,

the amendment shall also require to be ratified by the Legislatures of not less than one-half of the States ¹***by resolutions to that effect passed by those Legislatures before the Bill making provision for such amendment is presented to the President for assent.

¹The words and letters "specified in Parts A and B of the First Schedule" omitted by the Constitution, (Seventh Amendment) Act, 1956, s. 29 and Sch.

***FIRST SCHEDULE**

[Articles 1 and 4]

1. The States

<i>Name</i>	<i>Territories</i>
1. Andhra Pradesh	The territories specified in sub-section (1) of section 3 of the Andhra State Act, 1953, and the territories specified in sub-section (1) of section 3 of the States Reorganisation Act, 1956.
2. Assam	The territories which immediately before the commencement of this Constitution were comprised in the Province of Assam, the Khasi States and the Assam Tribal Areas, but excluding the territories specified in the Schedule to the Assam (Alteration of Boundaries) Act, 1951.
3. Bihar	The territories which immediately before the commencement of this Constitution were either comprised in the Province of Bihar or were being-administered as if they formed part of that Province, but excluding the territories specified in sub-section (1) of section 3 of the Bihar and West Bengal (Transfer of Territories) Act, 1956.
4. Bombay	The territories specified in sub-section (1) of section 8 of the States Reorganisation Act, 1956.
5. Kerala	The territories specified in sub-section (1) of section 5 of the States Reorganisation Act, 1956.
6. Madhya Pradesh	The territories specified in sub-section (1) of section 9 of the States Reorganisation Act, 1956.

*The First Schedule was subs. by the Constitution (Seventh Amendment) Act, 1956, s. 2.

<i>Name</i>	<i>Territories</i>
7. Madras	The territories which immediately before the commencement of this Constitution were either comprised in the Province of Madras or were being administered as if they formed part of that Province and the territories specified in section 4 of the States Reorganisation Act, 1956, but excluding the territories specified in sub-section (1) of section 3 and sub-section (1) of section 4 of the Andhra State Act, 1953 and the territories specified in clause (b) of sub-section (1) of section 5, section 6 and clause (d) of sub-section (1) of section 7 of the States Reorganisation Act, 1956.
8. Mysore	The territories specified in sub-section (1) of section 7 of the States Reorganisation Act, 1956.
9. Orissa	The territories which immediately before the commencement of this Constitution were either comprised in the Province of Orissa or were being administered as if they formed part of that Province.
10. Punjab	The territories specified in section 11 of the States Reorganisation Act 1956.
11. Rajasthan	The territories specified in section 10 of the States Reorganisation Act, 1956.
12. Uttar Pradesh	The territories which immediately before the commencement of this Constitution were either comprised in the Province known as the United Provinces or were being administered as if they formed part of that Province.
13. West Bengal	The territories which immediately before the commencement of this Constitution were either comprised in the Province of West Bengal or were being administered as if they formed part of that Province and the territory

*Name**Territories*

- of Chandernagore as defined in clause (c) of section 2 of the Chandernagore (Merger) Act, 1954, and also the territories specified in sub-section (1) of section 3 of the Bihar and West Bengal (Transfer of Territories) Act, 1956.
14. Jammu and Kashmir The territory which immediately before the commencement of this Constitution was comprised in the Indian State of Jammu and Kashmir.

II. The Union Territories*Name**Extent*

1. Delhi The territories which immediately before the commencement of this Constitution was comprised in the Chief Commissioner's Province of Delhi.
2. Himachal Pradesh The territories which immediately before the commencement of this Constitution were being administered as if they were Chief Commissioners' Provinces under the names of Himachal Pradesh and Bilaspur.
3. Manipur The territory which immediately before the commencement of this Constitution was being administered as if it were a Chief Commissioner's Province under the name of Manipur.
4. Tripura The territory which immediately before the commencement of this Constitution was being administered as if it were a Chief Commissioner's Province under the name of Tripura.
5. The Andaman and Nicobar Islands The territory which immediately before the commencement of this Constitution was comprised in the Chief Commissioner's Province of the Andaman and Nicobar Islands.

<i>Name</i>	<i>Extent</i>
6. The Laccadive, Minicoy and Amindivi Islands	The territory specified in section 6 of the States Reorganisation Act, 1956.

SEVENTH SCHEDULE

[Article 246]

List I—Union List

1. Defence of India and every part thereof including preparation for defence and all such acts as may be conducive in times of war to its prosecution and after its termination to effective demobilisation.
2. Naval, military and air forces; any other armed forces of the Union.
- *3. Delimitation of cantonment areas, local self-government in such areas, the constitution and powers within such areas of cantonment authorities and the regulation of house accommodation (including the control of rents) in such areas.
4. Naval, military and air force works.
5. Arms, firearms, ammunition and explosives.
6. Atomic energy and mineral resources necessary for its production.
7. Industries declared by Parliament by law to be necessary for the purpose of defence or for the prosecution of war.
- **8. Central Bureau of Intelligence and Investigation.
- **9. Preventive detention for reasons connected with Defence, Foreign Affairs, or the security of India; persons subjected to such detention.
10. Foreign Affairs; all matters which bring the Union into relation with any foreign country.
11. Diplomatic, consular and trade representation.
12. United Nations Organisation.
13. Participation in international conferences, associations and other bodies and implementing of decisions made thereat.

*In its application to the State of Jammu and Kashmir, the following shall be substituted for entry 3:—

"3. Administration of cantonments."

**These items are not applicable to the State of Jammu and Kashmir.

14. Entering into treaties and agreements with foreign countries and implementing of treaties, agreements and conventions with foreign countries.

15. War and Peace.

16. Foreign Jurisdiction.

17. Citizenship, naturalisation and aliens.

18. Extradition.

19. Admission into, and emigration and expulsion from, India: passports and visas.

20. Pilgrimages to places outside India.

21. Piracies and crimes committed on the high seas or in the air; offences against the law of nations committed on land or the high seas or in the air.

22. Railways.

23. Highways declared by or under law made by Parliament to be national highways.

24. Shipping and navigation on inland waterways, declared by Parliament by law to be national waterways, as regards mechanically propelled vessels; the rule of the road on such waterways.

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

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

27. Ports declared by or under law made by Parliament or existing law to be major ports, including their delimitation, and the constitution and powers of port authorities therein.

28. Port quarantine, including hospitals connected therewith; seamen's and marine hospitals.

29. Airways; aircraft and air navigation; provision of aerodromes; regulation and organisation of air traffic and of aerodromes; provision for aeronautical education and training and regulation of such education and training provided by States and other agencies.

30. Carriage of passengers and goods by railway, sea or air, or by national waterways in mechanically propelled vessels.

31. Posts and telegraphs; telephones, wireless, broadcasting and other like forms of communication.

32. Property of the Union and the revenue therefrom, but as regards property situated in a State^{1***} subject to legislation by the State, save in so far as Parliament by law otherwise provides.

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34. Courts of wards for the estates of Rulers of Indian States.

35. Public debt of the Union.

36. Currency, coinage and legal tender; foreign exchange.

37. Foreign loans.

38. Reserve Bank of India.

39. Post Office Savings Bank.

40. Lotteries organised by the Government of India or the Government of a State.

41. Trade and commerce with foreign countries; import and export across customs frontiers; definition of customs frontiers.

42. Inter-State trade and commerce.

*43. Incorporation, regulation and winding up of trading corporations, including banking, insurance and financial corporations but not including co-operative societies.

†44. Incorporation, regulation and winding up of corporations, whether trading or not, with objects not confined to one State, but not including universities.

45. Banking.

46. Bills of exchange, cheques, promissory notes and other like instruments.

47. Insurance.

48. Stock exchanges and futures markets.

¹The words and letters "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

²Entry 33 omitted by s. 26, *ibid.*

³Not applicable to the State of Jammu & Kashmir.

*In its application to the State of Jammu & Kashmir, the words "trading corporations, including" in item 43 shall be omitted.

†Not applicable to the State of Jammu & Kashmir.

49. Patents, inventions and designs; copyright; trade-marks and merchandise marks.

*50. Establishment of standards of weight and measure.

51. Establishing of standards of quality for goods to be exported out of India or transported from one State to another.

*52. Industries, the control of which by the Union is declared by Parliament by law to be expedient in the public interest.

53. Regulation and development of oilfields and mineral oil resources; petroleum and petroleum products; other liquids and substances declared by Parliament by law to be dangerously inflammable.

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

*55. Regulation of labour and safety in mines and oilfields.

56. Regulation and development of inter-State rivers and river valleys to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest.

57. Fishing and fisheries beyond territorial waters.

58. Manufacture, supply and distribution of salt by Union agencies; regulation and control of manufacture, supply and distribution of salt by other agencies.

59. Cultivation, manufacture, and sale for export, of opium.

*60. Sanctioning of cinematograph films for exhibition.

61. Industrial disputes concerning Union employees.

62. The institutions known at the commencement of this Constitution as the National Library, the Indian Museum, the Imperial War Museum, the Victoria Memorial and the Indian War Memorial, and any other like institution financed by the Government of India wholly or in part and declared by Parliament by law to be an institution of national importance.

63. The institutions known at the commencement of this Constitution as the Benares Hindu University, the Aligarh Muslim University and the Delhi University, and any other institution declared by Parliament by law to be an institution of national importance.

*Not applicable to the State of Jammu and Kashmir.

64. Institutions for scientific or technical education financed by the Government of India wholly or in part and declared by Parliament by law to be institutions of national importance.

65. Union agencies and institutions for—

(a) professional, vocational or technical training, including the training of police officers; or

(b) the promotion of special studies or research; or

(c) scientific or technical assistance in the investigation or detection of crime.

66. Co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions.

*67. Ancient and historical monuments and records, and archaeological sites and remains, ¹[declared by or under law made by Parliament] to be of national importance.

68. The Survey of India, the Geological, Botanical, Zoological and Anthropological Surveys of India; Meteorological organisations.

†69. Census.

70. Union Public Services; all-India services; Union Public Service Commission.

71. Union pensions, that is to say, pensions payable by the Government of India or out of the Consolidated Fund of India.

**72. Elections to Parliament, to the Legislatures of States and to the offices of President and Vice-President; the Election Commission.

73. Salaries and allowances of members of Parliament, the Chairman and Deputy Chairman of the Council of States and the Speaker and Deputy Speaker of the House of the People.

74. Powers, privileges and immunities of each House of Parliament and of the Members and the committees of each House; enforcement of attendance of persons for giving evidence or producing documents before committees of Parliament or commissions appointed by Parliament.

*In its application to the State of Jammu and Kashmir, for entry 67, the following shall be substituted:—

"67. Ancient and historical monuments, and archaeological sites and remains, declared by Parliament by law to be of national importance."

¹Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 27, for "declared by Parliament by law."

†Not applicable to the State of Jammu and Kashmir.

**In its application to the State of Jammu and Kashmir, reference to States shall be construed as reference to that State.

75. Emoluments, allowances, privileges, and rights in respect of leave of absence, of the President and Governors; salaries and allowances of the Ministers for the Union; the salaries, allowances, and rights in respect of leave of absence and other conditions of service of the Comptroller and Auditor-General.

*76. Audit of the accounts of the Union and of the States.

77. Constitution, organisation, jurisdiction and powers of the Supreme Court (including contempt of such Court), and the fees taken therein; persons entitled to practise before the Supreme Court.

**78. Constitution and organisation of the High Courts except provisions as to officers and servants of High Courts; persons entitled to practise before the High Courts;

†[79. **Extension of the jurisdiction of a High Court to, and exclusion of the jurisdiction of a High Court from, any Union territory.]

80. Extension of the powers and jurisdiction of members of a police force belonging to any State to any area outside that State, but not so as to enable the police of one State to exercise powers and jurisdiction in any area outside that State in which such area is situated; extension of the powers and jurisdiction of members of a police force belonging to any State to railway areas outside that State.

@81. Inter-State migration; inter-State quarantine.

82. Taxes on income other than agricultural income.

83. Duties of customs including export duties.

84. Duties of excise on tobacco and other goods manufactured or produced in India except—

(a) alcoholic liquors for human consumption;

(b) opium, Indian hemp and other narcotic drugs and narcotics, but including medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (b) of this entry.

*In its application to the State of Jammu and Kashmir, reference to States shall be construed as reference to that State.

**Not applicable to the State of Jammu & Kashmir.

†Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

@In its application to the State of Jammu and Kashmir, in item 81, the words "Inter-State quarantine" shall be omitted.

85. Corporation tax.
86. Taxes on the capital value of the assets, exclusive of agricultural land, of individuals and companies; taxes on the capital of companies.
87. Estate duty in respect of property other than agricultural land.
88. Duties in respect of succession to property other than agricultural land.
89. Terminal taxes on goods or passengers, carried by railway, sea or air; taxes on railway fares and freights.
90. Taxes other than stamp duties on transactions in stock exchanges and futures markets.
91. Rates of stamp duty in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares, debentures, proxies and receipts.
92. Taxes on the sale or purchase of newspapers and on advertisements published therein.
- *[92A. Taxes on the sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce.]
93. Offences against laws with respect to any of the matters in this List.
94. Inquiries, surveys and statistics for the purpose of any of the matters in this List.
95. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this List; admiralty jurisdiction.
96. Fees in respect of any of the matters in this List, but not including fees taken in any Court.
- †97. Any other matter not enumerated in List II or List III including any tax not mentioned in either of those Lists.

*Ins. by the Constitution (Sixth Amendment) Act, 1956, s. 2.

†Not applicable to the State of Jammu & Kashmir.

List II—State List

1. Public order (but not including the use of naval, military or air forces or any other armed forces of the Union in aid of the civil power).
2. Police, including railway and village police.
3. Administration of justice, constitution and organization of all courts, except the Supreme Court and the High Court; officers and servants of the High Court; procedure in rent and revenue courts; fees taken in all courts except the Supreme Court.
4. Prisons, reformatories, Borstal institutions and other institutions of a like nature, and persons detained therein; arrangements with other States for the use of prisons and other institutions.
5. Local government, that is to say, the constitution and powers of municipal corporations, improvement trusts, district boards, mining settlement authorities and other local authorities for the purpose of local self-government or village administration.
6. Public health and sanitation; hospitals and dispensaries.
7. Pilgrimages, other than pilgrimages to places outside India.
8. Intoxicating liquors, that is to say, the production, manufacture, possession, transport, purchase and sale of intoxicating liquors.
9. Relief of the disabled and unemployable.
10. Burials and burial grounds; cremations and cremation grounds.
11. Education including universities, subject to the provisions of entries 63, 64, 65 and 66 of List I and entry 25 of List III.
12. Libraries, museums and other similar institutions controlled or financed by the State; ancient and historical monuments and records other than those * [declared by or under law made by Parliament] to be of national importance.
13. Communications, that is to say, roads, bridges, ferries, and other means of communication not specified in List I; municipal tramways; ropeways; inland waterways and traffic thereon subject to the provisions of List I and List III with regard to such waterways; vehicles other than mechanically propelled vehicles.
14. Agriculture, including agricultural education and research, protection against pests and prevention of plant diseases.

*Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 27 for "declared by Parliament by law".

15. Preservation, protection and improvement of stock and prevention of animal diseases; veterinary training and practice.

16. Pounds and the prevention of cattle trespass.

17. Water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage and water power subject to the provisions of entry 56 of List I.

18. Land, that is to say, rights in or over land, land tenures including the relation of landlord and tenant, and the collection of rents; transfer and alienation of agricultural land; land improvement and agricultural loans; colonization.

19. Forests.

20. Protection of wild animals and birds.

21. Fisheries.

22. Courts of wards subject to the provisions of entry 34 of List I; encumbered and attached estates.

23. Regulation of mines and mineral development subject to the provisions of List I with respect to regulation and development under the control of the Union.

24. Industries subject to the provisions of *[entries 7 and 52] of List I.

25. Gas and gas-works.

26. Trade and commerce within the State subject to the provisions of entry 33 of List III.

27. Production, supply and distribution of goods subject to the provisions of entry 33 of List III.

28. Markets and fairs.

29. Weights and measures except establishment of standards.

30. Money-lending and money-lenders; *relief of agricultural indebtedness.

31. Inns and inn-keepers.

32. Incorporation, regulation and winding up of corporations, other than those specified in List I, and universities; unincorporated trading, literary, scientific, religious and other societies and associations; co-operative societies.

*Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 28, for "entry 52".

33. Theatres and dramatic performances; cinemas subject to the provisions of entry 60 of List I; sports, entertainments and amusements.

34. Betting and gambling.

35. Works, lands and buildings vested in or in the possession of the State.

†* * * * *
37. Elections to the Legislature of the State subject to the provisions of any law made by Parliament.

38. Salaries and allowances of members of the Legislature of the State, of the Speaker and Deputy Speaker of the Legislative Assembly and, if there is a Legislative Council, of the Chairman and Deputy Chairman thereof.

39. Powers, privileges and immunities of the Legislative Assembly and of the members and the committees thereof, and, if there is a Legislative Council, of that Council and of the members and the committees thereof; enforcement of attendance of persons for giving evidence or producing documents before committees of the Legislature of the State.

40. Salaries and allowances of Ministers for the State.

41. State public services; State Public Service Commission.

42. State pensions, that is to say, pensions payable by the State or out of the Consolidated Fund of the State.

43. Public debt of the State.

44. Treasure trove.

45. Land revenue, including the assessment and collection of revenue, the maintenance of land records, survey for revenue purposes and records of rights, and alienation of revenues.

46. Taxes on agricultural income.

47. Duties in respect of succession to agricultural land.

48. Estate duty in respect of agricultural land.

49. Taxes on lands and buildings.

50. Taxes on mineral rights subject to any limitations imposed by Parliament by law relating to mineral development.

†Entry 36 omitted by the Constitution. (Seventh Amendment) Act, 1956, s. 26.

51. Duties of excise on the following goods manufactured produced in the State and countervailing duties at the same lower rates on similar goods manufactured or produced elsewhere India:—

(a) alcoholic liquors for human consumption;

(b) opium, Indian hemp and other narcotic drugs and narcotic but not including medicinal and toilet preparations containin alcohol or any substance included in sub-paragraph (b) of thi entry.

52. Taxes on the entry of goods into a local area for consumption use or sale therein.

53. Taxes on the consumption or sale of electricity.

*[54. Taxes on the sale or purchase of goods other than newspapers, subject to the provisions of entry 92A of List I.]

55. Taxes on advertisements other than advertisements published in the newspapers.

56. Taxes on goods and passengers carried by road or on inland waterways.

57. Taxes on vehicles, whether mechanically propelled or not, suitable for use on roads, including tramcars subject to the provisions of entry 35 of List III.

58. Taxes on animals and boats.

59. Tolls.

60. Taxes on professions, trades, callings and employments.

61. Capitation taxes.

62. Taxes on luxuries, including taxes on entertainments, amusements, betting and gambling.

63. Rates of stamp duty in respect of documents other than those specified in the provisions of List I with regard to rates of stamp duty.

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

*Subs. by the Constitution (Sixth Amendment) Act, 1956, s. 2, for the original entry 54.

65. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this list.

66. Fees in respect of any of the matters in this List, but not including fees taken in any court.

List III—Concurrent List*

1. Criminal law, including all matters included in the Indian Penal Code at the commencement of this 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 or air forces or any other armed forces of the Union in aid of the civil power.

2. Criminal procedure, including all matters included in the Code of Criminal Procedure at the commencement of this Constitution.

3. Preventive detention for reasons connected with the security of a State, the maintenance of public order, or the maintenance of supplies and services essential to the community; persons subjected to such detention.

4. Removal from one State to another State of prisoners, accused persons and persons subjected to preventive detention for reasons specified in entry 3 of this List.

5. Marriage and divorce; infants and minors; adoption; wills, intestacy and succession; joint family and partition; all matters in respect of which parties in judicial proceedings were immediately before the commencement of this Constitution subject to their personal law.

6. Transfer of property other than agricultural land; registration of deeds and documents.

7. Contracts, including partnership, agency, contracts of carriage, and other special forms of contracts, but not including contracts relating to agricultural land.

8. Actionable wrongs.

9. Bankruptcy and insolvency.

10. Trusts and Trustees.

11. Administrators-general and official trustees.

12. Evidence and oaths; recognition of laws, public acts and records, and judicial proceedings.

*Not applicable to the State of Jammu & Kashmir.

13. Civil procedure, including all matters included in the Code of Civil Procedure at the commencement of this Constitution, limitation and arbitration.

14. Contempt of court, but not including contempt of the Supreme Court.

15. Vagrancy; nomadic and migratory tribes.

16. Lunacy and mental deficiency, including places for the reception or treatment of lunatics and mental deficient.

17. Prevention of cruelty to animals.

18. Adulteration of foodstuffs and other goods.

19. Drugs and poisons, subject to the provisions of entry 59 of List I with respect to opium.

20. Economic and social planning.

21. Commercial and industrial monopolies, combines and trusts.

22. Trade Unions; industrial and labour disputes.

23. Social security and social insurance; employment and unemployment.

24. Welfare including conditions of work, provident funds, workmen's compensation, invalidity and gratuity benefits.

25. Training of labour.

26. Origin and distribution of racial and tribal groups, and of language groups, and of religious and linguistic minorities.

27. Religious and linguistic minorities.

28. To another of the States, or to any person, animals or birds.

30. Vital statistics including registration of births and deaths.

31. Ports other than those declared by or under law made by Parliament or existing law to be major ports.

32. Shipping and navigation on inland waterways as regards mechanically propelled vessels, and the rule of the road on such waterways, and the carriage of passengers and goods on inland waterways subject to the provisions of List I with respect to national waterways.

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*[33. Trade and commerce in, and the production, supply and distribution of,—

- (a) the products of any industry where the control of such industry by the Union is declared by Parliament by law to be expedient in the public interest, and imported goods of the same kind as such products;
- (b) foodstuffs, including edible oilseeds and oils;
- (c) cattle fodder, including oilcakes and other concentrates;
- (d) raw cotton, whether ginned or unginned, and cotton seed and
- (e) raw jute].

34. Price control.

35. Mechanically propelled vehicles including the principles on which taxes on such vehicles are to be levied.

36. Factories.

37. Boilers.

38. Electricity.

39. Newspapers, books and printing

40. Archaeological sites and remains by or under law made by Parliament

41. Custody, management and

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46. Jurisdiction Courts, except the Supreme Court, with respect to any of the matters in this List.

47. Fees in respect of any of the matters in this List, but not including fees taken in any court.

*Subs. by the Constitution (Third Amendment) Act, 1954.

‡Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 27, for "declared by Parliament by law".

†Subs. for the original entry 42 by s. 26, *ibid*.

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THE INDIA AND BURMA (EXISTING LAWS) ACT, 1937.

Section.

1. Amer.
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(1 Edw. 8 & 1 Geo. 6, Ch. 9)

CHAPTER 9

And An Amendment and amend sections two hundred and ninety-two and two hundred and ninety-three of the Government of India Act, 1935, and sections one hundred and forty-eight and one hundred and forty-nine of the Government of Burma Act, 1935.

[18th February, 1937.]

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

1. Continuance and adaptation of certain existing laws in India and Burma.

(1) For the purposes of sections two hundred and ninety-two and two hundred and ninety-three of the Government of India Act, 1935 (26 Geo. 5 & 1 Edw. 8 c. 2), which provide for the existing laws of British India to continue in force therein after the date of the commencement of Part III of the said Act, subject to the power of His Majesty in Council to make such adaptations and modifications in any such law as appear to His Majesty to be necessary or expedient for bringing the provisions of that law into accord with the provisions of the said Act,—

(i) a law passed or made before the said date by a Legislature or other competent Authority in British India, and not previously repealed, is, for the removal of doubts, hereby declared to be a law in force immediately before that date notwithstanding that it, or parts of it, may not then be in operation, at all or in particular areas;

(ii) any such law which immediately before the said date has extra-territorial effect as well as effect in British India shall, subject to any such adaptations and modifications as aforesaid, continue to have extra-territorial effect;

(iii) the power of His Majesty in Council to make in an existing Indian law such adaptations and modifications as aforesaid shall be deemed to include power to declare any such law, or any part thereof, to be repealed, if it appears to His Majesty in Council that its continuance is unnecessary or inexpedient in view of the provisions, of the said Act;

(iv) nothing in the said sections shall be construed as continuing any temporary Act in force beyond the date fixed for its expiration.

(2) Paragraphs (i) to (iv) of the preceding sub-section shall apply also in relation to sections one hundred and forty-eight and one hundred and forty-nine of the Government of Burma Act, 1935 (26 Geo. 5 & 1 Edw. 8 c. 3.) (being the sections of that Act corresponding to the said sections two hundred and ninety-two and two hundred and ninety-three), with the following adaptations—

(a) references to British India and to an Indian law shall be construed respectively as references to Burma and to a Burma law.

(b) for the words "in view of the provisions of the said Act" there shall be substituted the words "in view of the separation of India and Burma."

2. Short title.—This Act may be cited as the India and Burma (Existing Laws) Act 1937.

The Government of India Act (Amendment) Act, 1939
THE GOVERNMENT OF INDIA ACT (AMENDMENT) ACT,
 (2 & 3 Geo. 6, Ch. 66.)

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CHAPTER 66

An Act to amend the Government of India Act, and the following
 [1st September, 1939]

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

1. Amendments as to Proclamations of Emergency.—(1) After section one hundred and twenty-six of the Government of India Act, 1935 (26 Geo. 5 & 1 Edw. 8. c. 2), there shall be inserted the following section:—

“126A. Where a Proclamation of Emergency is in operation whereby the Governor-General has declared that the security of India is threatened by war—

(a) the executive authority of the Federation shall extend to the giving of directions to a Province as to the manner in which the executive authority thereof is to be exercised, and any directions so given shall for the purposes of the last preceding section be deemed to be directions given thereunder;

(b) any power of the Federal Legislature to make laws for a Province with respect to any matter shall include power to make laws as respects a Province, conferring powers and imposing duties, or authorising the conferring of powers and the imposition of duties, upon the Federation or officers and authorities of the Federation as respects that matter, notwithstanding that it is one with respect to which the Provincial Legislature also has power to make laws:

Provided that no Bill or amendment which, as respects a Province, confers powers or imposes duties, or authorises the conferring of powers or the imposition of duties, upon the Federation or upon officers or authorities of the Federation in relation to such a matter as aforesaid shall be introduced or moved without the previous sanction of the Governor-General in his discretion, and the Governor-General shall not give his sanction unless it appears to him that the provision proposed to be made is a proper provision in view of the nature of the emergency”.

(2) The following consequential amendment shall, for the avoidance of doubt, be made in subsections (2) and (3) of section one hundred and twenty-four of the said Act, that is to say, after the word “duties” there shall be inserted the words “or authorise the conferring of powers and the imposition of duties”.

(3) At the end of section one hundred and two of the said Act, there shall, for the avoidance of doubt, be inserted the following subsection—

“(5) A Proclamation of Emergency declaring that the security of India is threatened by war or by internal disturbance may be made before the actual occurrence of war or of any such disturbance if the Governor-General in his discretion is satisfied that there is imminent danger thereof.”

2. Short title and commencement.—(1) This Act may be cited as the Government of India Act (Amendment) Act, 1939.

(2) This Act shall be deemed to have come into operation on the commencement of Part III of the Government of India Act, 1935.

The India and Burma (Miscellaneous Amendments) Act, 1940

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(2) After paragraph 54 of the **MISCELLANEOUS AMENDMENTS) ACT, 1940** inserted the following paragraph:— **Geo. 6, Ch. 5)**

"54A. The matters specified in paragraph 54 of the **ARRANGEMENT OF SECTIONS** may be made by laws of the **Provisions applicable only to India**

(3) For paragraph 46 of the **ARRANGEMENT OF SECTIONS** substituted the following paragraph:

"46. Taxes on professions, trades, callings and employments. The provisions as to taxes on income and corporation tax, however, to the provisions of the **ARRANGEMENT OF SECTIONS**

Amendments as to certain items in Legislative Lists.

Amendments as to certain items in Legislative Lists.

4. Amendments of ss. 88, 89 and 90.
5. Power to appoint acting puisne judges of the Federal Court.
6. Amendment of s. 219 (1).
7. Amendment of Legislative Lists with respect to universities.
8. Amendment of definition of "Indian State".
9. Amendment of s. 262.
10. Provisions as to family pension funds.
11. Confirmation of appointments to India Office staff and staff of Auditor of Indian Home Accounts.
12. Provisions as to pensions of home civil servants appointed to offices in India.

Provisions applicable only to Burma

13. Eligibility for office under the Crown in Burma of persons who are not British subjects.
14. Provisions as to pensions of home civil servants appointed to offices in Burma.
15. Amendment of s. 134 of Government of Burma Act, 1935.
16. Application of Naval Discipline Act to Burma naval forces.

General

Supplemental.

18. Short title.

SCHEDULE

CHAPTER 5

An Act to amend the Government of India Act, 1935, and the Government of Burma Act, 1935, in certain respects, and to make a consequential amendment in the Naval Discipline Act; and for purposes connected with the matters, aforesaid.

[31st January, 1940.]

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

Provisions applicable only to India

1. Amendment of the provisions as to taxes on income and corporation tax.—
(1) In subsection (2) of section three hundred and eleven of the Government of India Act, 1935 (26 Geo. 5 & 1 Edw. 8, c. 2), (hereafter in this Act referred to as "the principal Act") for the definition of "corporation tax" there shall be substituted the following definition:—

"corporation tax" means any tax on income, so far as that tax is payable by companies and is a tax in the case of which the following conditions are fulfilled:—

- (a) that it is not chargeable in respect of agricultural income;

4 *The India and Burma (Miscellaneous)*

(b) that no deduction in respect of the enactments which may apply to the tax, authority payable by the companies to individuals;

(c) that no provision exists for taking the tax into account in computing for the purposes of Indian income-tax the amount of such dividends, or in computing the Indian income-tax payable by such individuals, or refundable to, such individuals;"

and after the definition of "taxation," there shall be the following definition:—

" 'tax on income' includes a tax in the nature of an excess profits tax."

(2) At the end of subsection (1) of section one hundred and thirty-eight of the principal Act (which provides for the distribution to Provinces and Federated States of the proceeds of Federal taxes on income after deducting proceeds attributable to Chief Commissioners' Provinces or to taxes payable in respect of Federal emoluments) there shall be inserted the following paragraph:—

"For the purposes of this subsection, in each financial year one per cent., or such other percentage as may be prescribed, of so much of the net proceeds of taxes on income as does not represent the net proceeds of taxes payable in respect of Federal emoluments shall be deemed to represent proceeds attributable to Chief Commissioners' Provinces."

(3) In subsection (2) of the said section one hundred and thirty-eight (which relates to the retention by the Federation of moneys assigned by that section to Provinces and States), after the words "such sum as may be prescribed" there shall be inserted the words "or, if it is so prescribed, the whole of those moneys".

2. Taxes on professions, trades, callings and employments.—(1) After section one hundred and forty-two of the principal Act there shall be inserted the following section:—

"142A.—(1) Notwithstanding anything in section one hundred of this Act, no Provincial law relating to taxes for the benefit of a Province or of a municipality, district board, local board or other local authority therein in respect of professions, trades, callings or employments shall be invalid on the ground that it relates to a tax on income.

(2) The total amount payable in respect of any one person to the Province or to any one municipality, district board, local board, or other local authority in the Province by way of taxes on professions, trades, callings and employments shall not, after the thirty-first day of March nineteen hundred and thirty-nine, exceed fifty rupees per annum:

Provided that, if in the financial year ending with that date there was in force in the case of any Province or any such municipality, board or authority a tax on professions, trades, callings or employments the rate, or the maximum rate, of which exceeded fifty rupees per annum, the preceding provisions of this subsection shall, unless for the time being provision to the contrary is made by a law of the Federal Legislature, have effect in relation to that Province, municipality, board or authority as if for the reference to fifty rupees per annum there were substituted a reference to that rate or maximum rate, or such lower rate, if any (being a rate greater than fifty rupees per annum), as may for the time being be fixed by a law of the Federal Legislature; and any law of the Federal Legislature made for any of the purposes of this proviso may be made either generally or in relation to any specified Provinces, municipalities, boards or authorities.

(3) The fact that the Provincial Legislature has power to make laws as aforesaid with respect to taxes on professions, trades, callings and employments shall not be construed as limiting, in relation to professions, trades, callings and employments, the generality of the entry in the Federal Legislative List relating to taxes on income."

(2) After paragraph 54 of the Federal Legislative List there shall be inserted the following paragraph:—

"54A. The matters specified in the proviso to subsection (2) of section one hundred and forty-two A of this Act as matters with respect to which provision may be made by laws of the Federal Legislature."

(3) For paragraph 46 of the Provincial Legislative List there shall be substituted the following paragraph:—

"46. Taxes on professions, trades, callings and employments, subject, however, to the provisions of section one hundred and forty-two A of this Act."

Amendments as to certain items in Legislative Lists.—(1) In paragraph 46 of the Federal Legislative List after the words "local self-government in cantonment areas (not being cantonment areas of Indian State troops)" there shall be inserted the words "the constitution and powers within such areas of cantonment authorities".

(2) After paragraph 48 of the Provincial Legislative List there shall be inserted the following paragraphs:—

48A. Taxes on vehicles suitable for use on roads, whether mechanically propelled or not, including tramcars.

48B. Taxes on the consumption or sale of electricity, subject, however, to the provisions of section one hundred and fifty-four A of this Act."

(3) After section one hundred and fifty-four of the principal Act there shall be inserted the following section—

154A. "*Exemptions from taxes on electricity*".—Save in so far as any Federal law may otherwise provide, no Provincial law or law of a Federated State shall impose, or authorise the imposition of, a tax on the consumption or sale of electricity (whether produced by a Government or other persons) which is—

(a) consumed by the Federal Government, or sold to the Federal Government for consumption by that Government; or

(b) consumed in the construction, maintenance or operation of a Federal Railway by the Federal Railway Authority or a railway company operating that Railway, or sold to that Authority or any such railway company for consumption in the construction, maintenance or operation of a Federal Railway;

and any such law imposing, or authorising the imposition of, a tax on the sale of electricity shall secure that the price of electricity sold to the Federal Government for consumption by that Government, or to the Federal Railway Authority or any such railway company as aforesaid for consumption in the construction, maintenance or operation of a Federal Railway, shall be less by the amount of the tax than the price charged to other consumers of a substantial quantity of electricity."

4. **Amendments of ss. 88, 89 and 90.**—(1) At the end of subsection (3) of section eighty-eight of the principal Act there shall be inserted the following proviso:—

"Provided that, for the purposes of the provisions of this Act relating to the effect of an Act of a Provincial Legislature which is repugnant to an Act of the Federal Legislature or an existing Indian Law with respect to a matter enumerated in the Concurrent Legislative List, an ordinance promulgated under this section in pursuance of instructions from the Governor-General, acting in his discretion, shall be deemed to be an Act of the Provincial Legislature which has been reserved for the consideration of the Governor-General and assented to by him".

(2) For the proviso to subsection (1) of the said section eighty-eight there shall be substituted the following proviso:—

"Provided that the Governor—

(a) shall exercise his individual judgment as respects the promulgation of any ordinance under this section, if—

(i) a Bill containing the same provisions would under this Act have required his or the Governor-General's previous sanction to the introduction thereof into the Legislature; or

(ii) an Act of the Provincial Legislature containing the same provisions would under this Act have been invalid unless, having been reserved for the consideration of the Governor General or for the signification of His Majesty's pleasure, it had received the assent of the Governor-General or of His Majesty; and

(b) shall not without instructions from the Governor-General acting in his discretion, promulgate any such ordinance if—

(i) a Bill containing the same provisions would under this Act have required the Governor-General's previous sanction for the introduction thereof in the Legislature; or

(ii) he would have deemed it necessary to reserve a Bill containing the same provisions for the consideration of the Governor-General; or

(iii) an Act of the Provincial Legislature containing the same provisions would under this Act have been invalid unless, having been reserved for the consideration of the Governor-General or for the signification of His Majesty's pleasure, it had received the assent of the Governor-General or of His Majesty."

(3) In the proviso to subsection (4) of section eighty-nine, and the proviso to subsection (3) of section ninety, of the principal Act, after the words "repugnant to an Act of the Federal Legislature" there shall be inserted the words "or an existing Indian Law with respect to a matter enumerated in the Concurrent Legislative List."

5. Power to appoint acting puisne judges of the Federal Court.—At the end of section two hundred and two of the principal Act there shall be inserted the following subsection:—

"(2) If the office of any other judge of the Federal Court becomes vacant, or if any such judge is appointed to act temporarily as Chief Justice of India or is by reason of absence, or for any other reason, unable to perform the duties of his office, the Governor-General may in his discretion appoint a judge of a High Court who is duly qualified for appointment as a judge of the Federal Court to act temporarily as a judge of that court, and the person so appointed shall, unless the Governor-General in his discretion thinks fit to revoke his appointment, be deemed to be a judge of the Federal Court until some person appointed by His Majesty to the vacant office has entered on the duties thereof, or until the permanent judge has resumed his duties."

6. Amendment of s. 219 (1).—For the proviso to subsection (1) of section two hundred and nineteen of the principal Act (which enumerates the Courts in British India which are to be deemed to be High Courts for the purpose of that Act) there shall be substituted the following proviso,—

"Provided that, if provision has been made, whether before or after the commencement of Part III of this Act—

(a) by His Majesty by Letters Patent for the establishment of a High Court to replace any Court or Courts mentioned in this subsection; or

(b) by the appropriate Legislature in India for the establishment of a Chief Court to replace the Judicial Commissioner's Court in the North West Frontier Province, or the Judicial Commissioner's Court in Sind, then, as from the establishment of the new court, this section shall have effect as if the new court were mentioned therein in lieu of the court or courts so replaced."

7. Amendment of Legislative Lists with respect to universities.—(1) For paragraph 17 of the Provincial Legislative List there shall be substituted the following paragraph:—

"17.—Education, including Universities other than those specified in paragraph 18 of List I."

(2) The Federal Legislature shall not by virtue of paragraph 33 of the Federal Legislative List (which relates to corporations and, in particular, to corporations, whether trading or not, with objects not confined to one unit),

and the Provincial Legislature shall not by virtue of paragraph 38 of the Provincial Legislative List (which relates to other corporations) have power to make any law with respect to universities, and accordingly—

(a) at the end of the first of those paragraphs, there shall be added the words "but not including Universities"; and

(b) in the second of those paragraphs, for the words "other than corporations specified in List I" there shall be substituted the words "not being corporations specified in List I or Universities".

(3) This section shall come into operation on the first day of April nineteen hundred and forty.

8. Amendment of definition of "Indian State".—In subsection (1) of section three hundred and eleven of the principal Act for the definition of "Indian State" there shall be substituted the following definition:—

" 'Indian State' means any territory, not being part of British India, which His Majesty recognises as being such a State, whether described as a State, an Estate, a Jagir or otherwise;"

9. Amendment of s. 262.—As from the first day of April nineteen hundred and forty the following amendments shall be made in section two hundred and sixty-two of the principal Act (which relates to the eligibility for office of persons who are not British subjects):—

(a) in subsections (1) and (2), for the words "any subject of a specified Indian State" there shall, in both places, be substituted the words "the subjects, or any named subject, of a specified Indian State"; for the words "any native of a specified tribal area or territory adjacent to India" there shall, in both places be substituted the words "the natives, or any named native, of a specified tribal area or territory adjacent to India", and the words "being an office specified in the declaration" shall, in both places, be omitted;

(b) in subsection (4), after the words "Provided that" there shall be inserted the following paragraph:—

"(a) a person who at the end of March nineteen hundred and forty is in the permanent service of the Crown in India shall not be ineligible to hold any office under the Crown in India by reason that he is not a British subject; and (b)".

10. Provisions as to family pension funds.—(1) In subsection (2) of section two hundred and seventy-three of the principal Act (which relates to family pension funds)—

(a) for the words "the balance in the hands of the Governor-General on the thirty-first day of March next following the passing of this Act" there shall be substituted the words "the balance in the hands of the Secretary of State in Council on the thirty-first day of March nineteen hundred and thirty-seven";

(b) for the words "three years", in both places where those words occur, there shall be substituted the words "two years";

and in subsection (3) of the said section for the words "the Governor-General" there shall be substituted the words "the Secretary of State in Council."

(2) The Government of India (Family Pension Funds) Order, 1936, shall have effect and be deemed always to have had effect as if, in paragraphs ten, sixteen, twenty-two and twenty-five thereof, for the words "nineteen hundred and thirty-six" there were substituted the words "nineteen hundred and thirty-seven."

11. Confirmation of appointments to India Office Staff and Staff of Auditor of Indian Home Accounts.—After section two hundred and eighty-four of the principal Act there shall be inserted the following section:—

"284A.—(1) Any appointments which the Secretary of State in Council has purported to make to his permanent establishment before the commencement of Part III of this Act, and any increases which he has purported to make in the salaries of persons on that establishment, shall for all purposes be deemed

to have been validly made notwithstanding that the making thereof was not sanctioned by an Order of His Majesty in Council as provided by section seventeen of the Government of India Act.

(2) Any appointments which the Auditor of the accounts of the Secretary of State in Council has purported to make to his staff before the commencement of the said Part III shall be deemed to have been validly made notwithstanding that the making thereof was not authorised by such a warrant of His Majesty as is mentioned in section twenty-seven of the Government of India Act, and all salaries paid to any person on the said Auditor's staff shall be deemed to have been duly paid notwithstanding that they were not so authorised."

12. Provisions as to pensions of home civil servants appointed to offices in India.—After section three hundred and five of the principal Act there shall be inserted the following section:—

"305A.—(1) Where a civil servant, as defined by section twelve of the Superannuation Act, 1887 (50 & 51 Vict. c. 67), is appointed by His Majesty or by the Governor-General in his discretion to any office under the Crown in India, the Secretary of State may direct that his service in that office shall qualify for the grant of a pension or gratuity as if it were service rendered in the office held by him as a civil servant immediately before his appointment to service in India, and there shall be paid to, or in respect of, him out of the revenues of the Federation, and shall be charged on those revenues, in respect of his service in that office in India a pension or gratuity calculated in accordance with the Superannuation Acts, 1884 to 1935, and the orders, rules and regulations made thereunder, but on the basis of the salary of the office last held by him as a civil servant before his appointment to service in India:

Provided that nothing in the said Acts, orders, rules or regulations shall operate to prevent the grant of a pension to him with effect from the date on which he may relinquish office in India, notwithstanding that at that date he may not have attained the age of sixty.

(2) No such direction as aforesaid shall be given in relation to service in any office if the service of the person in question in that office would qualify for the grant of a pension without any such direction.

(3) This section shall apply to appointments made before the passing of this Act as well as to appointments made thereafter; and in relation to appointments made before the commencement of Part III of this Act, the reference to the Secretary of State shall be construed as a reference to the Secretary of State in Council."

Provisions applicable only to Burma

13. Eligibility for office under the Crown in Burma of persons who are not British subjects.—For section one hundred and twenty-three of the Government of Burma Act, 1935 (26 Geo. 5 & 1 Edw. 8 c. 9) (which relates to the eligibility for office under the Crown in Burma of persons who are not British subjects), there shall be substituted the following section:—

"123. Subject to any express provision of this Act, no person who is not a British subject shall be eligible to hold any office under the Crown in Burma:

Provided that—

(a) a person who at the commencement of this Act is in the permanent service of the Crown in Burma shall not be ineligible to hold any office under the Crown in Burma by reason that he is not a British subject;

(b) the Governor, exercising his individual judgment may declare—

(i) that any named native of an area in Burma (not being part of British Burma), or of any Indian State, or of any territory adjacent to India or Burma, or

(ii) that the natives of any such area, State or territory as aforesaid, being an area, State or territory specified in the declaration,

shall be eligible to hold any such offices or classes of offices under the Crown in Burma as may be specified in the declaration.

(c) the Governor, exercising his individual judgment, may authorise the temporary employment for any purpose of a person who is not a British subject."

14. Provisions as to pensions of home civil servants appointed to offices in Burma.—After section one hundred and fifty-one of the Government of Burma Act, 1935, there shall be inserted the following section:—

"151A.—(1) Where a civil servant, as defined by section twelve of the Superannuation Act, 1887, is appointed by His Majesty or by the Governor in his discretion to any office under the Crown in Burma, the Secretary of State may direct that his service in that office shall qualify for the grant of a pension or gratuity as if it were service rendered in the office held by him as a civil servant immediately before his appointment to service in Burma, and there shall be paid to, or in respect of, him out of the revenues of Burma, and shall be charged on those revenues, in respect of his service in that office in Burma a pension or gratuity calculated in accordance with the Superannuation Acts, 1834 to 1935, and the orders, rules, and regulations made thereunder, but on the basis of the salary of the office last held by him as a civil servant before his appointment to service in Burma:

Provided that nothing in the said Acts, orders, rules or regulations shall operate to prevent the grant of a pension to him with effect from the date on which he may relinquish office in Burma, notwithstanding that at that date he may not have attained the age of sixty.

(2) No such direction as aforesaid shall be given in relation to service in any office if the service of the person in question in that office would qualify for the grant of a pension without any such direction."

15. Amendment of s. 134 of Government of Burma Act, 1935.—In section one hundred and thirty-four of the Government of Burma Act, 1935 (which relates to the financial settlement as between India and Burma) for the words "the distribution of property and liabilities effected by this Act and the Government of India Act, 1935" there shall be substituted the words "the distribution of property, rights and liabilities effected by and under this Act and the Government of India Act, 1935."

16. Applications of Naval Discipline Act to Burma naval forces.—(1) After section thirty-three of the Government of Burma Act, 1935, the following section shall be inserted:—

"33A.—(1) Without prejudice to the provisions of this Act with respect to the legislative powers of the Legislature, provision may be made by Act of that Legislature for applying the Naval Discipline Act to any naval forces raised in Burma, and, so long as such provision for that purpose is made, the Naval Discipline Act as so applied shall have effect as if references therein to His Majesty's navy and His Majesty's ships included references to any naval forces raised or ships provided by the Governor, subject however—

(a) in the application of the said Act to the forces and ships raised and provided by the Governor and to the trial by court martial of officers and men belonging thereto, to such modifications and adaptations, if any, as may be made by the Act of the Legislature to adapt the said Act to the circumstances of Burma, including such adaptations as may be so made for the purpose of authorising or requiring anything which, under the said Act, is to be done by or to the Admiralty or the Secretary of the Admiralty to be done by or to the Governor or some person authorised to act on his behalf; and

(b) in the application of the said Act to the forces and ships of His Majesty's navy other than those raised and provided by the Governor, to such modifications and adaptations as may be made by His Majesty in Council for the purpose of regulating the relations of those forces and ships to the forces and ships raised and provided by the Governor.

(2) Notwithstanding anything in this Act or in any Act of the Legislature, where any forces and ships raised and provided by the Governor have been placed at the disposal of the Admiralty, the Naval Discipline Act shall apply without any such modifications and adaptations as aforesaid."

10 *The India and Burma (Miscellaneous Amendments) Act, 1940*

(2) In subsection (1) of section ninety B of the Naval Discipline Act, after the words "or of India" wherever they occur there shall be inserted the words "or of Burma".

General

17. Supplemental.—(1) The amendments made by this Act in the principal Act and the Government of Burma Act, 1935 (whether by way of substitution, addition or omission) shall, save where it is specifically provided that they shall come into operation on, or on some date subsequent to, the passing of this Act, be deemed to have been made in those Acts immediately before the passing thereof.

(2) A copy of each of the said Acts giving effect to—

(a) the amendments made by this Act and the Government of India Act (Amendment) Act, 1939, (2 & 3 Geo. 6. c. 66) and

(b) the amendments set out in the Schedule to this Act, being minor amendments previously made by Orders in Council in the Schedules to the said Acts, shall be prepared and certified by the Clerk of the Parliaments, and deposited with the Rolls of Parliament, and His Majesty's printer shall print in accordance with the copy so certified all copies of the principal Act and the Government of Burma Act, 1935, which are printed after all the said amendments have come into operation.

18. Short title.—This Act may be cited as the India and Burma (Miscellaneous Amendments) Act, 1940.

SCHEDULE

Section 17

Amendments made in the Schedules to the Government of India Act, 1935, and the Government of Burma Act, 1935, by the Government of India (Federal Legislature Amendment) Order, 1936, the Government of India (Provincial Legislative Assemblies) Order, 1936, the Government of Burma (House of Representatives) Order, 1936, and the Government of Burma (Senate Elections) Order, 1936, and the Government of Burma (Legislature) (Miscellaneous Provisions) Order, 1936.

PART I

Amendments of Schedules to the Government of India Act, 1935

Schedule I

At the end of paragraph 12 of Part II of the First Schedule there shall be added the following sub-paragraph:—

"This paragraph shall have effect as if the State of Khamti had been included in the Central India Agency on the first day of January nineteen hundred and thirty-five."

In the fifth column in the Table of Seats appended to the said Part II the population of the States comprised in Division XVII, shall, instead of being stated as "3,032,197", be stated as "3,047,129", and the total population of the States in the Table shall, instead of being stated as "78,981,912", be stated as "78,996,844".

Schedule V

In paragraph 12 of the Fifth Schedule for the words "shall not be qualified to hold a seat" there shall be substituted the words "shall not be qualified to be chosen to fill a seat".

Schedule VI

In paragraph 6 of Part I of the Sixth Schedule the words "or vote at any election to fill a general seat therein" shall be omitted.

At the end of paragraph 7 of the said Part I there shall be added the following provision:—

"If a person votes in more than one constituency in contravention of this paragraph, his votes in each of the constituencies shall be void."

Sub-paragraph (7) of paragraph 13 of the said Part I shall be omitted.

In sub-paragraphs (f) and (h) of paragraph 9 of Part II of the said Schedule for the words "is registered" there shall be substituted the words "was on the last day of the previous fasli year registered".

In sub-paragraph (g) of the said paragraph 9 for the word "holds" there shall be substituted the words "held throughout the previous fasli year".

In sub-paragraph (i) of the said paragraph 9 for the words "is a landholder" there shall be substituted the words "was on the last day of the previous fasli year a registered land-holder".

In sub-paragraph (j) of the said paragraph 9 for the word "holds" there shall be substituted the words "held on the last day of the previous fasli year".

After the said paragraph 9 there shall be inserted the following paragraph:—

"Special qualification for Scheduled Castes

9A. Subject to the provisions of Part I of this Schedule and to any overriding provisions of this Part of this Schedule, a person who is a member of the scheduled castes shall be qualified to be included in the electoral roll for any territorial constituency if throughout the previous fasli year he occupied as owner or lessee a house in a municipality, a cantonment or an area subject to the jurisdiction of a local board, with an annual rent value of not less than eighteen rupees, or a house elsewhere with an annual rent value of not less than twelve rupees."

For paragraph 10 of the said Part II there shall be substituted the following paragraph:—

"10. No person shall, by virtue of sub-paragraph (e) of paragraph 2, sub-paragraph (c) or sub-paragraph (d) of paragraph 3, paragraph 5 or paragraph 6 of this Part of this Schedule, or by virtue of her husband being a retired, pensioned or discharged officer, non-commissioned officer or soldier, be included in the electoral roll for any territorial constituency, unless application is made in the prescribed manner by, or, if it is so prescribed, on behalf of, that person, that that person should be so included."

At the end of paragraph 12 of the said Part II there shall be added the following sub-paragraph:—

"(3) References in this Part of this Schedule to, or to taxes payable in respect of, land or houses, relate exclusively to land or houses in the Province."

At the end of paragraph 3 of Part V of the said Schedule there shall be inserted the words "or, in the case of a member of the scheduled castes, if he is the owner or tenant of a house or building in the constituency the rental value whereof is not less than twelve rupees per annum."

In paragraph 2 of Part VII of the said Schedule after the words "or is assessed, otherwise than in the Santal Parganas, to chaukidari tax of an annual amount of not less than nine annas" there shall be inserted the words "or, in the case of a member of the scheduled castes, of an annual amount of not less than six annas".

In sub-paragraph (1) of paragraph 10 of Part VIII of the said Schedule after the definition of "land revenue" there shall be inserted the following definition:—

"municipal tax' means a tax imposed under the provisions of the Central Provinces Municipalities Act, 1922, or of that Act as applied to Berar."

Sub-paragraph (b) of paragraph 9 of Part IX of the said Schedule shall be omitted and at the end of that paragraph there shall be inserted the following paragraph:—

"Special Provisions as to Shillong

9A. In the case of any territorial constituency comprising any part of Shillong, any reference in this Part of this Schedule to 'the constituency' shall be

construed as including a reference to so much of the areas under the jurisdiction of the Shillong Municipal Board and the Shillong Cantonment Authority as is not part of British India, and any reference to municipal or cantonment rates or taxes shall be construed as including a reference to any such rates or taxes assessed by, or paid to, that Board or that Authority in the exercise of any jurisdiction exercised by them in relation to areas outside British India."

In the heading to paragraph 6 of Part XI of the said Schedule and in the said paragraph 6 the words "the sub-division of" shall be omitted.

In sub-paragraph (a) of the said paragraph 6 after the words "of not less than nine annas" there shall be inserted the words "or, in the case of a member of the scheduled castes, of not less than six annas".

In the heading to paragraph 8 of the said Part XI for the words "and Vizagapatam and the Khondmals sub-division" there shall be substituted the words "Koraput and Khondmals".

In the said paragraph 8—

(i) after sub-paragraph (a) there shall be inserted the following sub-paragraph:—

"(b) if he is a member of the scheduled castes and is a village servant, whether hereditary or not; or" and sub-paragraph (b) shall be re-lettered "(c)."

(ii) for the words "and Vizagapatam or in the Khondmals sub-division" there shall be substituted the words "Koraput and Khondmals"; and

(iii) for the words "either of those districts or in that sub-division," in both places where those words occur, there shall be substituted the words "in any of those districts".

In sub-paragraph (b) of paragraph 8 of Part XII of the said Schedule after the words "cultivates as a Hari" there shall be inserted the words "or occupies as a tenant".

PART II

Amendments of the Government of Burma Act, 1935

Schedule III

For sub-paragraph (1) (i) of paragraph 12 of the Third Schedule there shall be substituted the following sub-paragraph:—

"(i) was, for the financial year preceding that in which the election is held, assessed to income-tax in Burma, and had in the year in respect of the income, profits and gains of which the assessment was made a total income of not less than twelve thousand rupees; or".

In sub-paragraph (2) of the said paragraph 12 after "(a)" the following words shall be inserted "total income' means total income as computed for the purposes of the enactments relating to income-tax for the time being in force in Burma, and".

At the end of the said paragraph 12 there shall be added the following sub-paragraphs:—

"(3) Nothing in any enactment relating to income-tax shall prevent the appropriate income-tax officer from disclosing to any person charged by law with the duty of enquiring into the qualifications of candidates for election to the Senate such information with respect to the total income of any such candidate as is necessary to enable him to discharge that duty.

(4) In this paragraph 'minister' means a minister under this Act or the Acts repealed by the Government of India Act, 1935."

Schedule IV

In paragraph 3 of the Fourth Schedule the words "a subject of a prescribed Indian State, or, if it is so prescribed," shall be omitted.

CHAPTER 33

An Act to make emergency provision with respect to the Government of India and Burma

[27th June, 1940.]

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

1. Provisions as to India.—(1) Any power of appointment to, or removal from, any office in India (including any power as to appointments to act temporarily in an office) being a power which, apart from the provisions of this section, would be exercisable by His Majesty, shall, during the period specified in section three of this Act, be exercisable also by the Governor-General:

Provided that the foregoing provisions of this sub-section shall not apply in relation to the office of Governor-General or the office of His Majesty's Representative for the exercise of the functions of the Crown in its relations with Indian States, but section ninety of the Government of India Act [which, as set out in the Ninth Schedule to the Government of India Act, 1935, (26 Geo. 5 & 1 Edw. 8. c. 2), provides for the temporary exercise of the powers of the Governor-General in the event of a vacancy in that office] shall apply in relation to any period during which the Governor-General is for any reason unable to perform the duties of his office as it applies in relation to the period mentioned in sub-section (1) of the said section ninety.

(2) Any provision which, under the Government of India Act, 1935, could be made—

(a) by an Order in Council made in accordance with the provisions of sub-section (1) of section three hundred and nine of that Act; or

(b) by rules made by, or with the sanction of, the Secretary of State, may, during the period specified in section three of this Act, be made also by the Governor-General by notification in the Gazette of India; and any notification made under this subsection may be varied or revoked by a subsequent notification made thereunder or in any other manner in which such an Order in Council, or as the case may be, such rules, could be varied or revoked.

(3) Section seventy-two of the Government of India Act (which, as set out in the Ninth Schedule to the Government of India Act, 1935, confers on the Governor-General power to make ordinances in cases of emergency) shall, as respects ordinances made during the period specified in section three of this Act, have effect as if the words "for the space of not more than six months from its promulgation" were omitted; and, notwithstanding the provision in the said section seventy-two that the power of making ordinances thereunder is subject to the like restrictions as the power of the Indian Legislature to make laws—

(a) ordinances may, during the said period, be made under that section affecting the Army Act, the Air Force Act, or the Naval Discipline Act; and

(b) section one hundred and eleven of the Government of India Act, 1935 (which exempts certain British subjects from certain Indian laws) shall not apply to any ordinance made under the said section seventy-two during that period.

(4) The functions of the Governor-General under this section shall be deemed for the purposes of the Government of India Act, 1935, to be included among the functions which he is, by or under that Act, required to exercise in his discretion, and so much of section eighteen A of the Interpretation Act, 1889, (52 & 53 Vict. c. 63), as provides that the expression "Governor-General," in relation to the period between the commencement of Part III of the Government of India Act, 1935, and the establishment of the Federation of India, means the Governor-General in Council, shall not apply to this section.

14 *The India and Burma (Emergency Provisions) Act, 1940*

2. Provisions as to Burma.—(1) Any power of appointment to, or removal from, any office, in Burma, which, apart from the provisions of this section, would be exercisable by His Majesty, shall, during the period specified in section three of this Act, be exercisable also by the Governor:

Provided that this subsection shall not apply in relation to the office of Governor.

(2) Any provision which, under the Government of Burma Act, 1935, (26 Geo. 5 & 1 Edw. 8. c. 3), could be made—

(a) by an Order in Council made in accordance with the provisions of subsection (1) of section one hundred and fifty-seven of that Act; or

(b) by rules made by the Secretary of State,

may, during the period specified in section three of this Act, be made also by the Governor by notification in the official Gazette of Burma: and any notification made under this subsection may be varied or revoked by a subsequent notification made thereunder, or in any other manner in which such an Order in Council, or, as the case may be, such rules, could be varied or revoked.

(3) Notwithstanding anything in Part IV of the Government of Burma Act, 1935, any ordinance promulgated under section forty-two of that Act during the period specified in section three of this Act and any Governor's Act made during that period may affect the Army Act, the Air Force Act or the Naval Discipline Act, or any similar law enacted by a competent authority in India; and section forty-four of the Government of Burma Act, 1935 (which exempts certain British subjects from certain Burma laws) shall not apply to any ordinance under the said section forty-two or Governor's Act promulgated or made during that period.

(4) The functions of the Governor under this section shall be deemed for the purposes of the Government of Burma Act, 1935, to be included among the functions which he is, by or under that Act, required to exercise in his discretion.

(5) The operation of subsection (1) of section nine of the Government of Burma Act, 1935 (which relates to the procedure to be followed as to Instructions from His Majesty) is hereby suspended during the period specified in section three of this Act.

3. Period during which powers are exercisable.—The period referred to in the preceding sections is the period beginning with the date of the passing of this Act and ending with such date as His Majesty may by Order in Council declare to be the end of the emergency which was the occasion of the passing of this Act.

4. Reference to be made to Secretary of State.—(1) Without prejudice to the provisions of section three hundred and fourteen of the Government of India Act, 1935, and section ten of the Government of Burma Act, 1935 (which provide for the control of the Secretary of State over the discretionary powers of the Governor-General of India and the Governor of Burma) the powers exercisable by virtue of this Act by the Governor-General of India and the Governor of Burma shall not be exercised except on the direction of the Secretary of State:

Provided that the Governor-General or the Governor, as the case may be, may exercise any such powers without any such direction if, and only if, it appears to him that it is essential that the powers should be exercised and that a previous reference to the Secretary of State is likely to cause undue delay in the exercise thereof.

(2) The validity of anything done by the Governor-General or the Governor shall not be called in question on the ground that it was done otherwise than in accordance with the provisions of this section.

5. Short title.—This Act may be cited as the India and Burma (Emergency Provisions) Act, 1940.

The India and Burma (Postponement of Elections) Act, 1941 15
THE INDIA AND BURMA (POSTPONEMENT OF ELECTIONS)
ACT, 1941.

(4 & 5 Geo. 6 ch. 44)

CHAPTER 44

An Act to enable the dissolution of Provincial Legislative Assemblies in India and the House of Representatives in Burma to be postponed.

[2nd October, 1941.]

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

1. Postponement of certain general elections.—(1) In each province in India the first Legislative Assembly under the Government of India Act, 1935, (26 Geo. 5 & 1 Edw. 8, c. 2.), shall, notwithstanding anything in sub-section (2) of section sixty-one of that Act, continue until twelve months after the end of the war period, unless previously dissolved under subsection (2) of section sixty-two of that Act.

(2) The first House of Representatives under the Government of Burma Act, 1935, (26 Geo. 5 & 1 Edw. 8, c. 3.), shall, notwithstanding anything in sub-section (4) of section eighteen of that Act, continue until twelve months after the end of the war period, unless previously dissolved under sub-section (2) of that section.

(3) In this section, the expression "the war period" means the period for which the Emergency Powers (Defence) Act, 1939, (2 & 3 Geo. 6, c. 62), is in force.

2. This Act may be cited as the India and Burma (Postponement of Elections) Act, 1941.

THE INDIA (FEDERAL COURT JUDGES) ACT, 1942

(5 & 6 Geo. 6, ch. 7)

CHAPTER 7.

An Act to extend the power of the Governor-General of India to make acting appointments of judges of the Federal Court.

[26th February, 1942.]

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

1. Amendment of s. 202 of the Government of India Act, 1935.—(1) At the end of section two hundred and two of the Government of India Act, 1935, (26 Geo. 5 & 1 Edw. 8, c. 2), there shall be added the following sub-section.—

"(3) If the Governor-General in his discretion is satisfied, after considering a report from the Chief Justice of India—

(a) that in view of some personal interest which any judge of the Federal Court has, in the decision of any particular case, or of some part which any judge of the Federal Court has already taken, as judge or counsel or otherwise, in or in relation to any particular case (whether or not while it was before the Federal Court), that judge ought not to take part in the hearing and determination thereof, and

(b) that without that judge there are not sufficient judges of the Federal Court available to sit for that purpose, the Governor-General may in his discretion appoint a judge of a High Court who is duly qualified for appointment as judge of the Federal Court to act temporarily as a judge of that court and the person so appointed shall, unless the Governor-General in his discretion thinks fit to revoke his appointment, be deemed to be a judge of the Federal Court until that case has been heard and determined by the Federal Court."

16 *The India and Burma (Temporary and Miscellaneous Provisions) Act, 1942*

(2) The amendment made by this Act in the Government of India Act, 1935, shall be deemed to have been made therein immediately before the passing thereof.

(3) A copy of the said Act giving effect to—

(a) the amendments mentioned in subsection (2) of section seventeen of the India and Burma (Miscellaneous Amendments) Act, 1940, (3 & 4 Geo. 6, c. 5), and

(b) the amendment made by this Act, shall be prepared and certified by the Clerk of the Parliaments and deposited with the Rolls of Parliament, and His Majesty's printer shall print in accordance with the copy so certified all copies of the Government of India Act, 1935, which are printed after the said copy has been so prepared, certified and deposited.

2. Short title.—This Act may be cited as the India (Federal Court Judges) Act, 1942.

THE INDIA AND BURMA (TEMPORARY AND MISCELLANEOUS PROVISIONS) ACT, 1942.

(5 & 6 Geo. 6, Ch. 39)

CHAPTER 39

An Act to make temporary amendments as respects the Government of India, to make certain other amendments in the Government of India Act, 1935, and to make temporary provision as to certain matters connected with Burma.

[22nd October, 1942]

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

1. Extension of proclamations under s. 93 of Government of India Act, 1935.

—Notwithstanding anything in the proviso to subsection (3) of section ninety-three of the Government of India Act, 1935, (26 Geo. 5 & 1 Edw. 8, c. 2), a proclamation under that section made during the war period shall not cease to be in force by reason only that it has been in force for three years, and any such proclamation which would, but for this section, cease to be in force for that reason shall, if the resolutions in that behalf required by the said proviso are from time to time passed by both Houses of Parliament, continue in force, unless revoked, till the expiration of twelve months after the end of the war period.

2. Appeals to Privy Council from emergency courts.—(1) No application made after the passing of this Act for special leave to appeal to His Majesty in Council from any sentence passed in India during the war period by an emergency court shall be entertained if the sentence of the court has been reviewed and confirmed by a High Court or by a person holding office as a judge of a High Court.

(2) In this section, the expression "emergency court" means a court declared by an ordinance to have been constituted to meet conditions of grave emergency and to be a court to which it is expedient that this section shall for the time being apply; and the expression "ordinance" means an ordinance under section seventy-two of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935.

(3) Section four of the India and Burma (Emergency Provisions) Act 1940, (3 & 4 Geo. 6, c. 33), (which requires prior reference to be made to the Secretary of State in certain cases) shall apply to the making of ordinances for the purposes of this section as it applies to the making of ordinances by virtue of that Act.

3. Amendment of Ninth Schedule of Government of India Act, 1935.—(1) At the end of subsection (1) of section sixty-three E of the Ninth Schedule to the Government of India Act, 1935, there shall be added the following proviso—

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

(2) In subsection (1) of section three hundred and seventeen of the said Act the words “consequential on the provisions of this Act” are hereby repealed.

4. Amendment of s. 298 of Government of India Act, 1935.—(1) For paragraph (a) of subsection (2) of section two hundred and ninety-eight of the Government of India Act, 1935 (which excepts certain laws from the general prohibition of disabilities by reason of race, religion, etc.) there shall be substituted the following paragraph:—

“(a) prohibits, either absolutely or subject to exceptions, dispositions of agricultural land situate in any particular area and owned by a person belonging to some class recognised by the law as being a class of persons engaged in or connected with agriculture in that area or as being an aboriginal tribe, in favour or for the benefit of any person not belonging to that class.

(2) At the end of the said section two hundred and ninety-eight there shall be inserted the following subsection:—

“(4) In paragraph (a) of subsection (2) of this section, ‘agricultural land’, in relation to any area where there is in force immediately before the commencement of Part III of this Act any law the operation of which is to any extent saved by the said paragraph (a), includes all such property and rights in or over property as are included in the expression ‘land’ as defined for the purposes of that law as then in force.”

5. Provisions as to Burma.—(1) Any references in the Government of Burma Act, 1935, (26 Geo. 5 & 1 Edw. 8. c. 3), to the raising of forces in Burma shall, as respects the war period, be construed as including, and as always having included, references to the raising of forces in India by or for the Government of Burma, and any references in the said Act to the civil services of, or civil posts under, the Crown in Burma or to any authorities in Burma shall, as respects the war period, be construed as including, and as always having included, references to services, posts or authorities established in India in continuation of or in substitution for those services, posts or authorities.

(2) Acts of the Governor of Burma may, as respects the war period, confer on such courts in British India as may be designated by the Governor-General of India in consultation with the Governor of Burma such jurisdiction in relation to matters to which this subsection applies as may be specified in the Acts, being jurisdiction which, before the enemy occupation of Burma, was exercisable by a court in Burma, but subject to such modifications, if any, as may be so specified, including jurisdiction in or as respects proceedings which at the date of the said occupation were pending in any court in Burma.

The matters to which this subsection applies are insolvency, divorce, probate and letters of administration and trusts, and such other matters as may be agreed from time to time between the Governor-General of India and the Governor of Burma:

Provided that the jurisdiction of any court in India under the Indian and Colonial Divorce Jurisdiction Act, 1926, (16 & 17 Geo. 5. c. 40), shall not be extended under this subsection save in relation to proceedings which at the date of the occupation of Burma were pending in a court in Burma.

In this subsection the expression “Acts of the Governor of Burma” includes any Acts or ordinances which the Governor of Burma is authorised to make by or under the Government of Burma Act, 1935.

6. Interpretation and supplemental.—(1) In this Act, the expression “the war period” means the period beginning with the twenty-fourth day of August, nineteen hundred and thirty-nine, and ending when the Emergency Powers (Defence) Act, 1939 (2 & 3 Geo. 6. c. 62.), ceases to be in force.

(2) The amendments made by sections three and four of this Act in the Government of India Act, 1935, shall be deemed to have been made therein immediately before the passing thereof.

(3) A copy of the said Act giving effect to—

(a) the amendments mentioned in subsection (3) of section one of the India (Federal Court Judges) Act, 1942 (5 & 6 Geo. 6, c. 7); and

(b) the amendments made by sections three and four of this Act, shall be prepared and certified by the Clerk of the Parliaments and deposited with the Rolls of Parliament and His Majesty’s printer shall print in accordance with the copy so certified all copies of the Government of India Act 1935, which are printed after the said copy has been so prepared, certified and deposited.

7. Short title and construction.—This Act may be cited as the India and Burma (Temporary and Miscellaneous Provisions) Act, 1942, and shall, as respects India, be construed as one with the Government of India Act, 1935, and, as respects Burma, be construed as one with the Government of Burma Act, 1935.

THE INDIA (ATTACHMENT OF STATES) ACT, 1944

(7 & 8 Geo. 6, Ch. 14.)

CHAPTER 14

An Act to render legal the attachment of certain Indian States to other Indian States.

[21st March 1944.]

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

1. Attachment of States.—(1) At the instance or with the consent of His Majesty’s Representative for the exercise of the functions of the Crown in its relations with Indian States, any Indian State not mentioned in Divisions I to XVI of the Table of Seats appended to Part II of the First Schedule to the Government of India Act, 1935 (26 Geo. 5 & 1 Edw. 8, c. 2) (as in force at the passing of this Act), being a State included in the Western India States Agency or the Gujarat States Agency on the 25th day of August 1943 may be attached to any other Indian State and, in connection with the attachment, provision may be made for—

(a) the exercise by, or transfer to, courts and officers of the last-mentioned Indian State, with or without limitations or conditions, of any powers or jurisdiction in or in relation to the first-mentioned Indian State which were or could have been exercised by or on behalf of the Crown therein before the attachment;

(b) the relinquishment, as a consequence of the attachment, of any such powers or jurisdiction of the Crown as aforesaid;

(c) the transfer of cases pending at the date of the attachment before courts or officers of the Crown;

and this subsection shall have effect notwithstanding anything in the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c 37), the Government of India Act, 1935, (26 Geo. 5 & 1 Edw. 8, c. 2.), any other Act for the time being in force, or any Letters Patent, Order in Council or other instrument.

(2) This section shall be deemed always to have had effect:

Provided that His Majesty's Representative for the exercise of the functions of the Crown in its relations with Indian States may give such directions, if any, as he thinks proper for rendering valid or lawful anything done or omitted before the passing of this Act which would otherwise be invalid or unlawful by virtue of the provisions of this section.

2. **Short title.**—This Act may be cited as the India (Attachment of States) Act, 1944.

THE INDIA (MISCELLANEOUS PROVISIONS) ACT, 1944

(7 & 8 Geo. 6, Ch. 38)

CHAPTER 38

An Act to amend the Government of India Act, 1935, in certain respects.

[26th October, 1944.]

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

1. **Extension of term of members of certain Provincial Legislative Councils.**

—(1) Where (whether before or after the passing of this Act) by any provisions of a Proclamation under section ninety-three of the Government of India Act, 1935 (hereafter in this Act referred to as "the principal Act"), the retirement of any of the members of the Legislative Council of a Province is postponed, the term of office of all members of that Legislative Council who held office when those provisions came into force shall be treated as increased by the length of the period during which those provisions remain in force, together with such additional periods, if any, not exceeding twelve months, as the Governor in his discretion may by public notification direct for the purpose of securing that elections to that Council, other than elections to fill casual vacancies, are held at a convenient time of year.

(2) Where the Governor gives such a direction as aforesaid, the direction may further provide that for such period not exceeding twelve months from the giving of the direction as may be specified therein, vacancies in all or any specified seats in the Council shall not be filled.

(3) If, on the coming into force (whether before or after the passing of this Act) of any such provisions of any such Proclamation as aforesaid, there is a vacancy in any of the seats of the Legislative Council in question, it shall not be filled while these provisions remain in force, and, if it is a casual vacancy, any person who, after these provisions have ceased to be in force, is chosen to fill it shall be chosen for a term of office increased to the extent specified in subsection (1) of this section.

2. **Judges to vacate office on transfer.**—At the end of the proviso to subsection (2) of section two hundred and twenty of the principal Act (which relates to the term of office of judges of High Courts) there shall be added the following paragraph:—

"(c) the office of a judge shall be vacated by his being appointed by His Majesty to be a judge of the Federal Court or of another High Court."

3. **Reduction of minimum number of advisers of Secretary of State.**—In subsection (3) of section three hundred and fourteen of the principal Act (which provides that while Part XIII of that Act is in operation the advisers of the Secretary of State shall be not more than twelve, nor less than eight, in number) for the word "eight" there shall be substituted the word "five".

4. **Leave of absence of Governor General, &c.**—(1) In subsection (3) of section eighty-six of the Government of India Act set out in the Ninth Schedule to the principal Act (which provides that leave of absence shall not in pursuance of that section, be granted to the Governor-General, the Commander-in-Chief or any other member of the Governor-General's Executive

Council for any period exceeding four months or more than once during his term of office), after the words "this section" there shall be inserted the words "for urgent reasons of health or of private affairs".

(2) For subsection (6) of the said section eighty-six (which provides for the granting to the Governor-General and the Commander-in-Chief of travelling allowances in addition to the leave allowances to which they are entitled under that section) there shall be substituted the following subsection:—

"(6) If the Governor-General or the Commander-in-Chief is granted leave for urgent reasons of public interest, the Secretary of State may—

(a) direct that he shall be entitled to receive during his absence his salary as fixed under the last foregoing section in lieu of the leave allowances to which he would otherwise be entitled under the last foregoing subsection;

(b) grant to him, in addition to his salary as so fixed or any leave allowances, as the case may be, such allowances or further allowances in respect of travelling expenses as the Secretary of State may think fit".

5. Amendment as to acting appointment during absence of Governor-General, &c. on leave.—For section eighty-seven of the Government of India Act set out in the said Ninth Schedule (which requires, where leave is granted to the Governor-General or to the Commander-in-Chief, the appointment of a person to act in his place during his absence) there shall be substituted the following section:—

"87 (1) Where, in pursuance of the last foregoing section, leave is granted to the Governor-General for any reason, or to the Commander-in-Chief for urgent reasons of health or of private affairs, a person shall be appointed to act in his place during his absence, and where leave is so granted to the Commander-in-Chief for urgent reasons of public interest, a person may be appointed to act in his place during his absence.

(2) Any such appointment shall be made by His Majesty by warrant under the Royal Sign Manual.

(3) A person appointed under this section to act in the place of the Commander-in-Chief may, if the Commander-in-Chief was a member of the Executive Council of the Governor-General, be also appointed by the Governor-General in Council to be a temporary member of that Council.

(4) A person appointed under this section shall, until the return to duty of the permanent holder of the office or, if he does not return, until a successor arrives, hold and execute the office to which he has been appointed and shall have and may exercise all the rights and powers thereof and shall be entitled to receive the emoluments and advantages appertaining to the office, foregoing the emoluments and advantages (if any) to which he was entitled at the time of his being appointed to that office."

6. Supplemental.—(1) The amendment made by section two of this Act in the principal Act shall be deemed to have been made therein immediately before the passing thereof.

(2) A copy of the principal Act giving effect to—

(a) the amendments mentioned in subsection (3) of section six of the India and Burma (Temporary and Miscellaneous Provisions) Act, 1942; and

(b) the amendments made by sections two, three, four and five of this Act, shall be prepared and certified by the Clerk of the Parliaments and deposited with the Rolls of Parliament, and His Majesty's printer shall print in accordance with the copy so certified all copies of the principal Act which are printed after the said copy has been so prepared, certified and deposited.

7. Short title.—This Act may be cited as the India (Miscellaneous Provisions) Act, 1944.

THE INDIA (ESTATE DUTY) ACT, 1945

(8 & 9 Geo. 6, Ch. 7)

CHAPTER 7

~~An~~ Act to authorize the imposition of estate duties in India and to make provision as to the distribution of the net proceeds thereof.

[7th March, 1945.]

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

1. Power to impose, and distribution of proceeds of, estate duty.—(1) In the Seventh Schedule to the Government of India Act, 1935 (26 Geo. 5, & 1 Edw. 8 c. 2), after paragraph 56 of the Federal Legislative List there shall be inserted the following paragraph:—

“56A. Estate duty in respect of property other than agricultural land”; and after paragraph 43 of the Provincial Legislative List, there shall be inserted the following paragraph:—

“43A. Estate duty in respect of agricultural land”.

(2) In section one hundred and thirty-seven of the said Act (which provides for the distribution to the Provinces of the proceeds of certain taxes) after the words “Duties in respect of succession to property other than agricultural land,” there shall be inserted the words “estate duty in respect of property other than agricultural land.”

(3) In subsection (2) of section three hundred and eleven of the said Act, before the definition of “existing Indian law” there shall be inserted the following definition:—

“‘estate duty’ means a duty to be assessed on or by reference to the principal value, ascertained in accordance with such rules as may be prescribed by or under the Federal or Provincial laws relating to the duty, of all property passing upon death or deemed, under the provisions of the said laws, so to pass”.

2. Short title and printing.—(1) This Act may be cited as the India (Estate Duty) Act, 1945.

(2) A copy of the Government of India Act, 1935 giving effect to:—

(a) the amendments mentioned in sub-section (2) of section six of the India (Miscellaneous Provisions) Act, 1944 (7 & 8 Geo. 6 c. 38) and

(b) the amendments made by this Act

shall be prepared and certified by the Clerk of the Parliaments, and deposited with the Rolls of Parliament, and His Majesty's printer shall print in accordance with the copy so certified all copies of the Government of India Act, 1935, which are printed after the said copy has been so prepared, certified and deposited.

The Indian Franchise Act, 1945
THE INDIAN FRANCHISE ACT, 1945

(9 & 10 Geo. 6, Ch. 2.)

CHAPTER 2

An Act to make temporary provision for the inclusion in electoral rolls in India of persons returned from war service, to relax residence qualifications for those persons and to extend certain Indian franchise qualifications which depend on service in His Majesty's forces or on the award of a pension.

[24th October, 1945.]

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

1. Inclusion in electoral rolls of persons returned from war service.—(1) A person who has been engaged in war service, as defined for the purposes of this Act, may, not later than twelve months from the termination thereof or from the date of the passing of this Act, whichever last occurs, apply for his inclusion in the electoral roll for any of the constituencies mentioned in subsection (3) of this section, and the roll shall, if he is entitled to be included therein, be amended accordingly.

(2) For the purposes of this section, a person shall be treated as entitled to be included in an electoral roll if he would be so entitled if the roll were being revised at or by reference to the date of his application.

(3) Subject to the provisions of this Act—

(a) the Governor-General in Council, in the case of a constituency for the election of persons to fill seats in either chamber of the Indian Legislature or for the election of persons to fill seats in the Legislative Council of the Chief Commissioner of Coorg; and

(b) the Governor of the Province, in the case of a constituency for the election of persons to fill seats in a chamber of a Provincial Legislature, may make rules regulating the manner in which and the persons by whom any question arising as to the right of a person making such an application to be included in the roll is to be decided.

2. Residence qualifications.—(1) If on an application under the preceding section in respect of such an electoral roll as is therein mentioned or on the preparation or revision of such an electoral roll it appears that a person would have satisfied a residence qualification but for his absence on war service, that qualification shall be treated as satisfied in his case.

(2) In this section the expression "residence qualification" means, in relation to the electoral roll for any constituency, any provision (however expressed) contained in any enactment, Order in Council or rules, requiring as a condition of inclusion in the electoral roll either residence or the possession of a place of residence, at or for any specified time, in the constituency or other specified area.

3. Definition of war service.—(1) In this Act, the expression "war service" means service at any time during the period which begins with the third day of September, nineteen hundred and thirty-nine, and ends with such date as may be appointed by the Governor-General in Council, either—

(a) in any of His Majesty's naval, military or air forces; or

(b) under the Crown in any other capacity directly relevant to the prosecution of any war in which His Majesty is at any time engaged during the said period.

(2) If any doubt arises as to whether any service of a person is or is not war service, the question shall be referred, in the case of service under the Government of any Province, to the Governor of that Province and, in the case of any other service, to the Governor-General in Council, and the decision of that

Governor or, as the case may be, of the Governor-General in Council, shall be final.

4. **Extension of certain franchise qualifications.**—(1) The enactments, Orders in Council and rules mentioned in the Schedule to this Act shall have effect subject to the amendments therein specified, being amendments extending the franchise qualifications depending on service in His Majesty's regular military forces or the Auxiliary Force (India) or the Indian Territorial Force to other cases of service in His Majesty's forces or the reserves thereof, and extending the franchise qualifications depending on the award of a civil, military or political pension to cases of an award of a pension in respect of naval or air service.

(2) Any power conferred by or under any Act to amend, revoke or vary any of the provisions mentioned in the said Schedule shall include a power to amend, revoke or vary those provisions as amended in the manner specified in the said Schedule.

5. **Supplementary.**—The functions of the Governor of a Province under this Act shall be deemed for the purposes of the Government of India Act, 1935, to be included among the functions as respects which he is, by or under that Act, required to exercise his individual judgment.

6. **Printing.**—A copy of the Government of India Act, 1935, giving effect to:—

(a) the amendments mentioned in sub-section (2) of section two of the India (Estate Duty) Act, 1945; and

(b) the amendments made by section four of, and Part I of the Schedule to, this Act;

shall be prepared and certified by the Clerk of the Parliaments and deposited with the Rolls of Parliament and His Majesty's printer shall print in accordance with the copy so certified all copies of the Government of India Act, 1935, which are printed after the said copy has been so prepared, certified and deposited.

7. **Short title.**—This Act may be cited as the Indian Franchise Act, 1945.

SCHEDULE

AMENDMENTS TO GIVE EFFECT TO EXTENSION OF CERTAIN FRANCHISE QUALIFICATIONS

PART I

Section 4

Amendments of the Sixth Schedule to the Government of India Act, 1935.

(26 Geo. 5 & 1 Edw. 8, c. 2)

1. For the words "an officer, non-commissioned officer or soldier of His Majesty's regular military forces" wherever those words occur, there shall be substituted the words "a member of His Majesty's naval, military or air forces".

2. For the words "officer, non-commissioned officer or soldier of His Majesty's regular military forces" wherever those words occur elsewhere, there shall be substituted the words "member of His Majesty's naval, military or air forces".

3. For paragraph 12 of Part I, there shall be substituted the following paragraph:—

"12. This Schedule shall have effect as if any reference therein to a member of His Majesty's naval, military or air forces included a reference to a member of any British India police force, the Royal Indian Naval Reserve, the Royal Indian Naval Volunteer Reserve, the Auxiliary Force (India), the Indian Territorial Force or the Royal Indian Air Force Volunteer Reserve, not being a member who has been dismissed or discharged for disciplinary reasons:

Provided that this paragraph shall not have effect in relation to any person by reason of his membership of the Royal Indian Naval Reserve, the Royal Indian Naval Volunteer Reserve, the Auxiliary Force (India), the Indian Territorial Force or the Royal Indian Air Force Volunteer Reserve unless the period of his service either was of not less than four years or included actual service in the Royal Indian Navy or the Royal Indian Air Force or service in a part of the Auxiliary Force (India) or the Indian Territorial Force for the time being embodied in pursuance of a notification issued by the Governor-General in Council and published in the Gazette of India.

4. In sub-paragraph (5) of paragraph 13 of Part I, after the words "Schedule to a" there shall be inserted the words "retired, pensioned or discharged member or to a".

5. In paragraph 10 of Part II and in sub-paragraph (1) of paragraph 10 of Part V for the words "officer, non-commissioned officer or soldier" there shall be substituted the words "member of His Majesty's naval, military or air forces".

6. In paragraph 9 of Part VIII for the words "an officer, non-commissioned officer, soldier or man" there shall be substituted the words "a member".

PART II.

Amendment of the Government of India (Provincial Legislative Assemblies) Orders, 1936 (S. R. & O. 1936 No. 416)

For paragraphs (c) and (d) of sub-paragraph (2) of paragraph 9 of Part IX there shall be substituted the following paragraphs:—

"(c) he is a retired, pensioned or discharged member of His Majesty's naval, military or air forces, of the Assam Rifles, or of a British India police force not being a member who was dismissed or discharged for disciplinary reasons; or

(d) in the case of a woman, she is the pensioned widow or pensioned mother of a person who was a member of His Majesty's naval, military or air forces, of the Assam Rifles or of a British India police force."

PART III.

Amendment of the Government of India (Provincial Legislative Councils) Orders, 1936 (S. R. & O. 1936 No. 416)

For the words "civil, military or political pension", wherever they occur there shall be substituted the words "civil, naval, military, air force or political pension".

PART IV.

Amendments of the Coorg Electoral Rules

1. For sub-paragraph (e) of paragraph (iii) of rule 9 there shall be substituted the following sub-paragraph:—

"(e) service in His Majesty's forces or the reserve thereof or police service."

2. For paragraph 1A of the Second Schedule there shall be substituted the following paragraph:—

"1A. This Schedule shall have effect as if any reference therein to a member of His Majesty's naval, military or air forces included a reference to a member of any British India police force, the Royal Indian Naval Reserve, the Royal Indian Naval Volunteer Reserve, the Auxiliary Force (India), the Indian Territorial Force or the Royal Indian Air Force Volunteer Reserve, not being a member who has been dismissed or discharged for disciplinary reasons:

Provided that this paragraph shall not have effect in relation to any person by reason of his membership of the Royal Indian Naval Reserve, the Royal Indian Naval Volunteer Reserve, the Auxiliary Force (India), the Indian Territorial Force or the Royal Indian Air Force Volunteer Reserve unless the period of his service either was of not less than four years or included actual service in the Royal Indian Navy or the Royal Indian Air Force or service in a part of the

Auxiliary Force (India) or the Indian Territorial Force for the time being embodied in pursuance of a notification issued by the Governor-General in Council and published in the Gazette of India."

3. For the words "officer, non-commissioned officer or soldier of His Majesty's regular forces" wherever those words occur elsewhere in the said Schedule, there shall be substituted the words "member of His Majesty's naval, military or air forces".

THE INDIA (PROCLAMATIONS OF EMERGENCY) ACT, 1946

(9 & 10 GEO. 6, CH. 23).

CHAPTER 23

An Act to amend the Government of India Act, 1935, as respects the effect of Proclamations of Emergency under section one hundred and two of that Act.

[14th February, 1946.]

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

1. **Amendment of s. 102 of Government of India Act, 1935.**—In sub-section (1) of section one hundred and two of the Government of India Act, 1935 (26 Geo. 5 & 1 Edw. 8, c. 2) (which enables the Central Legislature, where a Proclamation of Emergency is in force, to make laws for a Province or any part thereof with respect to any of the matters enumerated in the Provincial Legislative List), after the words "enumerated in the Provincial Legislative List" there shall be inserted the words "or to make laws, whether or not for a Province or any part thereof, with respect to any matter not enumerated in any of the Lists in the Seventh Schedule to this Act".

2. **Commencement and transitional provision.**—(1) Subject to the provisions of this section, this Act shall be deemed to have come into operation on the commencement of Part III of the Government of India Act, 1935.

(2) Where, before the passing of this Act, a High Court in British India has given a judgment or made a final order in any civil proceedings involving a question as to the validity of any law, ordinance, order, bye-law, rule or regulation passed or made in India, any party to the proceedings may, at any time within ninety days from the passing of this Act, apply—

(a) where an appeal from the judgment or order has been decided by the Federal Court, to the Federal Court; and

(b) in any other case, to the High Court, for a review of the proceedings in the light of the provisions of this Act, and the Court to which the application is made shall review the proceedings accordingly and make such order, if any, varying or reversing the judgment or order previously given or made, as may be necessary to give effect to the provisions of this Act:

Provided that, on any such application, the Court may make such order as to the costs of the application and of the proceedings as may be just, and, where it varies or reverses the original judgment or order, may order any party in whose favour the variation or reversal operates to pay to any party adversely affected by the variation or reversal such compensation as may be just for any loss sustained by him which is attributable to anything reasonably done by him in reliance on the original judgment or order.

3. **Short title and printing.**—(1) This Act may be cited as the India (Proclamations of Emergency) Act, 1946.

(2) A copy of the Government of India Act, 1935, giving effect to—

(a) the amendments mentioned in section six of the Indian Franchise Act, 1945 (9 and 10 Geo. 6, c. 2); and

(b) the amendment made by section one of this Act, shall be prepared and certified by the Clerk of the Parliaments and deposited with the Rolls of Parliament, and His Majesty's printer shall print in accordance with the copy so certified all copies of the Government of India Act, 1935, which are printed after the said copy has been so prepared, certified and deposited.

THE INDIA (CENTRAL GOVERNMENT AND LEGISLATURE) ACT, 1946

(9 & 10 GEO. 6 CH. 39)

CHAPTER 39

An Act to amend the Government of India Act, 1935, with respect to the qualifications of members of the Governor-General's Executive Council, to extend temporarily the powers of the Indian Legislature to make laws, to amend sub-section (4) of section one hundred and two of the said Act as to the effect of laws passed by virtue of a Proclamation of Emergency, and for purposes connected with the matters aforesaid.

[26th March, 1946.]

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

1. Qualifications for membership of Executive Council.—Sub-section (3) of section thirty-six of the Government of India Act, as continued in force by the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5 and 1 Edw. 8 c. 2) (being a provision which requires that three members of the Governor-General's Executive Council shall be persons who have been ten years in the service of the Crown in India and that one member thereof shall be a barrister, an advocate or a pleader) is hereby repealed.

2. Trade and commerce and unemployment.—(1) Notwithstanding anything in the Government of India Act, 1935, the Indian Legislature shall during the period mentioned in section four of this Act have power to make laws with respect to the following matters—

(a) trade and commerce (whether or not within a Province) in, and the production, supply and distribution of, cotton and woollen textiles, paper (including newsprint), foodstuffs (including edible oil seeds and oils), petroleum and petroleum products, spare parts of mechanically propelled vehicles, coal, iron, steel and mica; and

(b) unemployment among persons who have been serving during the present war in the armed forces of His Majesty or of any Indian State, and, so far as relates to the rehabilitation of disabled persons and the setting up and carrying on of labour exchanges, employment information bureaux and retaining establishments for persons whether disabled or not, unemployment among other persons who have been serving or have been employed in connection with the present war (whether their service or employment was by or under the Crown or not); and

(c) offences against laws with respect to any of the matters mentioned in the preceding paragraphs of this subsection, enquiries and statistics for the purposes of any of those matters, jurisdiction and powers of all Courts, except the Federal Court, with respect to any of those matters, and fees in respect of any of those matters, but not including fees taken in any Court,

but any law made by the Indian Legislature which that Legislature would not, but for the provisions of this section, have been competent to make shall, to the extent of the incompetency, cease to have effect on the expiration of the said period except as respects things done or omitted to be done before the expiration thereof.

(2) Any power of the Indian Legislature to make laws under this section with respect to any matter shall include power to make laws as respects a Province conferring powers and imposing duties, or authorising the conferring of powers and the imposition of duties, upon the Governor-General in Council or

officers and authorities of the Governor-General in Council as respects that matter; notwithstanding that it is one in respect of which the Provincial Legislature also has power to make laws.

(3) No Bill or amendment making any provision which the Indian Legislature would not, but for the provisions of this section, have been competent to make, shall be introduced or moved in either Chamber of the Indian Legislature without the previous sanction of the Governor-General.

(4) Subsection (2) of section one hundred and seven of the Government of India Act, 1935 (which relates to inconsistency between Federal laws and Provincial laws) and subsection (2) of section one hundred and twenty-six of that Act (which relates to the giving of directions to a Province as to the carrying into execution of Federal laws relating to matters specified in Part II of the Concurrent Legislative List) shall apply in relation to a law enacted by virtue of this section with respect to any matter, being a matter with respect to which a Province has power to make laws, as if that matter were a matter specified in Part II of the Concurrent Legislative List.

3. Requisitioned Land.—(1) Notwithstanding anything in the Government of India Act, 1935, the powers of the Indian Legislature to make laws shall extend to the making of laws—

(a) providing, in relation to land, in a Province which, when the Act of the Indian Legislature known as the Defence of India Act, 1939, expires, is subject to any requisition effected under the rules made under that Act, for the continuance, until not later than the end of the period mentioned in section four of this Act, of all or any of the powers theretofore exercisable under the said Act of the Indian Legislature or the said rules; and

(b) providing, in particular, for the continuance as aforesaid of the power of the Governor-General in Council compulsorily to acquire any such land as aforesaid for any purposes directly and without the interposition of any Province, and any laws made by virtue of this subsection may contain provisions with respect to offences against the laws, enquiries and statistics for the purposes of the laws, jurisdiction and powers of all Courts, except the Federal Court, with respect to any of the matters dealt with by the laws and fees in respect of any of those matters, but not including fees taken in any Court; and subsections (2) to (4) of the last preceding section shall apply in relation to any such laws as they apply in relation to laws made under that section.

(2) Nothing in this section shall—

(a) prejudice any power of the Governor-General in Council to acquire land in accordance with section one hundred and twenty-seven of the Government of India Act, 1935 (which enables land to be acquired by the Governor-General in Council through the intermediacy of a Province); or

(b) affect the provisions of subsection (2) of section two hundred and ninety-nine of that Act (which requires any law authorising the compulsory acquisition of land to make provision for the payment of compensation).

(3) In this section, the expression "land" includes immovable property of every kind.

4. Duration of legislative powers under this Act.—The period mentioned in the two last preceding sections is the period of one year beginning with the date on which the Proclamation of Emergency in force at the passing of this Act ceases to operate or, if the Governor-General by public notification so directs, the period of two years beginning with that date:

Provided that if and so often as a resolution approving the extension of the said period is passed by both Houses of Parliament, the said period shall be extended for a further period of twelve months from the date on which it would otherwise expire so, however, that it does not in any case continue for more than five years from the date on which the Proclamation of Emergency ceases to operate.

5. Duration of laws passed by virtue of a Proclamation of Emergency.—A law made by the Indian Legislature whether before or after the passing of this Act, during the continuance in force of the Proclamation of Emergency being a law which that Legislature would not, but for the issue of such a Proclamation, have been competent to make, shall not cease to have effect as required by subsection (4) of section one hundred and two of the Government of India Act, 1935, except to the extent to which the said Legislature would not, but for the issue of that Proclamation, have been competent to make it, and accordingly, in the said subsection (4) for the words "shall cease to have effect" there shall be substituted the words "shall, to the extent of the incompetency, cease to have effect".

6. Supplementary provisions.—(1) The functions of the Governor-General under this Act shall be deemed for the purposes of the Government of India Act, 1935, to be included among the functions which he is, by or under that Act, required to exercise in his discretion, and so much of section eighteen A of the Interpretation Act, 1889 (52 and 53 Vict. c. 63), as provides that the expression "Governor-General", in relation to the period between the commencement of Part III of the Government of India Act, 1935, and the establishment of the Federation of India means the Governor-General in Council, shall not apply to this Act.

(2) A copy of the Government of India Act, 1935, giving effect to—

(a) the amendments mentioned in section three of the India (Proclamations of Emergency) Act, 1946; and

(b) the amendments made by sections one and five of this Act, shall be prepared and certified by the Clerk of the Parliaments and deposited with the Rolls of Parliament, and His Majesty's printer shall print in accordance with the copy so certified all copies of the Government of India Act, 1935, which are printed after the said copy had been so prepared, certified and deposited.

7. Short-title.—This Act may be cited as the India (Central Government and Legislature) Act, 1946.