

THE CONSTITUTION OF INDIA

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a ¹[SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC] and to secure to all its citizens:

Preamble.

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 ²[unity and integrity of the Nation];

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

¹Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 2, for "SOVEREIGN DEMOCRATIC REPUBLIC" (w.e.f. 3-1-1977).

²Subs. by s. 2, *ibid.*, for "unity of the Nation" (w.e.f. 3-1-1977).

PART I

THE UNION AND ITS TERRITORY

Name and territory of the Union.

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

¹[(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;

²[(b) the Union territories specified in the First Schedule; and]

(c) such other territories as may be acquired.

Admission or establishment of new States.

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

³2A. [*Sikkim to be associated with the Union.*] Rep. by the Constitution (Thirty-sixth Amendment) Act, 1975, s. 5 (w.e.f. 26-4-1975).

Formation of new States and alteration of areas, boundaries or names of existing States.

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:

⁴[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

¹Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 2, for cl. (2).

²Subs. by s. 2, *ibid.*, for sub-clause (b).

³Article 2A was ins. by the Constitution (Thirty-fifth Amendment) Act, 1974, s. 2 (w.e.f. 1-3-1975).

⁴Subs. by the Constitution (Fifth Amendment) Act, 1955, s. 2, for the proviso.

(Part I.—The Union and its territory.—Arts. 3-4.)

or name of any of the States ^{1***}, the Bill has been referred by the President to the Legislature of that State for expressing its views thereon within such period as may be specified in the reference or within such further period as the President may allow and the period so specified or allowed has expired.]

²[*Explanation I.*—In this article, in clauses (a) to (e), "State" includes a Union territory, but in the proviso, "State" does not include a Union territory.

Explanation II.—The power conferred on Parliament by clause (a) includes the power to form a new State or Union territory by uniting a part of any State or Union territory to any other State or Union territory.]

4. (1) Any law referred to in article 2 or article 3 shall contain such provisions for the amendment of the First Schedule and the Fourth Schedule as may be necessary to give effect to the provisions of the law and may also contain such supplemental, incidental and consequential provisions (including provisions as to representation in Parliament and in the Legislature or Legislatures of the State or States affected by such law) as Parliament may deem necessary.

Laws made under articles 2 and 3 to provide for the amendment of the First and the Fourth Schedules and supplemental, incidental and consequential matters.

(2) No such law as aforesaid shall be deemed to be an amendment of this Constitution for the purposes of article 368.

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.

²Ins. by the Constitution (Eighteenth Amendment) Act, 1966, s. 2.

PART II

CITIZENSHIP

Citizenship at the commencement of the Constitution.

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

(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.

Rights of citizenship of certain persons who have migrated to India from Pakistan.

6. Notwithstanding anything in article 5, a person who has migrated to the territory of India from the territory now included in Pakistan shall be deemed to be a citizen of India at the commencement of this Constitution if—

(a) he or either of his parents or any of his grandparents was born in India as defined in the Government of India Act, 1935 (as originally enacted); and

(b) (i) in the case where such person has so migrated before the nineteenth day of July, 1948, he has been ordinarily resident in the territory of India since the date of his migration, or

(ii) in the case where such person has so migrated on or after the nineteenth day of July, 1948, he has been registered as a citizen of India by an officer appointed in that behalf by the Government of the Dominion of India on an application made by him therefor to such officer before the commencement of this Constitution in the form and manner prescribed by that Government:

Provided that no person shall be so registered unless he has been resident in the territory of India for at least six months immediately preceding the date of his application.

(Part II.—Citizenship.—Arts. 7—11.)

7. Notwithstanding anything in articles 5 and 6, a person who has after the first day of March, 1947, migrated from the territory of India to the territory now included in Pakistan shall not be deemed to be a citizen of India:

Rights of citizenship of certain migrants to Pakistan.

Provided that nothing in this article shall apply to a person who, after having so migrated to the territory now included in Pakistan, has returned to the territory of India under a permit for resettlement or permanent return issued by or under the authority of any law and every such person shall for the purposes of clause (b) of article 6 be deemed to have migrated to the territory of India after the nineteenth day of July, 1948.

8. Notwithstanding anything in article 5, any person who or either of whose parents or any of whose grandparents 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.

Rights of citizenship of certain persons of Indian origin residing outside India.

9. No person shall be a citizen of India by virtue of article 5, or be deemed to be a citizen of India by virtue of article 6 or article 8, if he has voluntarily acquired the citizenship of any foreign State.

Persons voluntarily acquiring citizenship of a foreign State not to be citizens.

10. Every person who is or is deemed to be a citizen of India under any of the foregoing provisions of this Part shall, subject to the provisions of any law that may be made by Parliament, continue to be such citizen.

Continuance of the rights of citizenship.

11. Nothing in the foregoing provisions of this Part shall derogate from the power of Parliament to make any provision with respect to the acquisition and termination of citizenship and all other matters relating to citizenship.

Parliament to regulate the right of citizenship by law.

PART III

FUNDAMENTAL RIGHTS

General

Definition.

12. In this Part, unless the context otherwise requires, “the State” includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

Laws inconsistent with or in derogation of the fundamental rights.

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.

(3) In this article, unless the context otherwise requires,—

(a) “law” includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law;

(b) “laws in force” includes laws passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that any such law or any part thereof may not be then in operation either at all or in particular areas.

¹[(4) Nothing in this article shall apply to any amendment of this Constitution made under article 368.]

Right to Equality

Equality before law.

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.

¹Ins. by the Constitution (Twenty-fourth Amendment) Act, 1971, s. 2.

(Part III.—Fundamental Rights.—Arts. 15-16.)

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.

Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.

(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.

¹[(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.]

²[(5) Nothing in this article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30.]

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

Equality of opportunity in matters of public employment.

(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

¹Added by the Constitution (First Amendment) Act, 1951, s. 2.

²Ins. by the Constitution (Ninety-third Amendment) Act, 2005, s. 2 (w.e.f. 20-1-2006).

(Part III.—Fundamental Rights.—Arts. 16—18.)

¹[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.

²[(4A) Nothing in this article shall prevent the State from making any provision for reservation ³[in matters of promotion, with consequential seniority, to any class] or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State.]

⁴[(4B) Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty per cent. reservation on total number of vacancies of that year.]

(5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

Abolition of
Untouchability.

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.

Abolition of titles.

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.

¹Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch., for “under any State specified in the First Schedule or any local or other authority within its territory, any requirement as to residence within that State”.

²Ins. by the Constitution (Seventy-seventh Amendment) Act, 1995, s. 2.

³Subs. by the Constitution (Eighty-fifth Amendment) Act, 2001, s. 2, for certain words (w.e.f. 17-6-1995).

⁴Ins. by the Constitution (Eighty-first Amendment) Act, 2000, s. 2 (w.e.f. 9-6-2000).

(Part III.—Fundamental Rights.—Arts. 18-19.)

(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.

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; ¹[and]

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(g) to practise any profession, or to carry on any occupation, trade or business.

³[(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 ⁴[the sovereignty and integrity of India,] 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 ⁴[the sovereignty and integrity of India or] 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 ⁴[the sovereignty and

Protection of certain rights regarding freedom of speech, etc.

¹Ins. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 2 (w.e.f. 20-6-1979).

²Sub-clause (f) omitted by s. 2, *ibid.* (w.e.f. 20-6-1979).

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

⁴Ins. by the Constitution (Sixteenth Amendment) Act, 1963, s. 2.

(Part III.—Fundamental Rights.—Arts. 19—21.)

integrity of India or] public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(5) Nothing in ¹[sub-clauses (d) and (e)] 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, ²[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].

Protection in respect of conviction for offences.

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.

Protection of life and personal liberty.

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

¹Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 2, for "sub-clauses (d), (e) and (f)" (w.e.f. 20-6-1979).

²Subs. by the Constitution (First Amendment) Act, 1951, s. 3, for certain words.

(Part III.—Fundamental Rights.—Arts. 21A-22.)

*[**21A.** The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.]

Right to education.

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.

Protection against arrest and detention in certain cases.

(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 of arrest to the court of the magistrate and no such person shall 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

*Ins by the Constitution (Eighty-sixth Amendment) Act, 2002, s. 2 (which is not yet in force, date to be notified later on).

**Cl. (4) shall stand substituted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 3 (which is yet not in force, date to be notified later on) as—

“(4) No law providing for preventive detention shall authorise the detention of a person for a longer period than two months unless an Advisory Board constituted in accordance with the recommendations of the Chief Justice of the appropriate High Court has reported before the expiration of the said period of two months that there is in its opinion sufficient cause for such detention:

Provided that an Advisory Board shall consist of a Chairman and not less than two other members, and the Chairman shall be a serving Judge of the appropriate High Court and the other members shall be serving or retired Judges of any High Court:

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

Explanation.—In this clause, “appropriate High Court” means,—

(i) in the case of the detention of a person in pursuance of an order of detention made by the Government of India or an officer or authority subordinate to that Government, the High Court for the Union territory of Delhi;

(ii) in the case of the detention of a person in pursuance of an order of detention made by the Government of any State (other than a Union territory), the High Court for the State; and

(iii) in the case of the detention of a person in pursuance of an order of detention made by the administrator of a Union territory or an officer or authority subordinate to such administrator, such High Court as may be specified by or under any law made by Parliament in this behalf.”

(Part III.—Fundamental Rights.—Art. 22.)

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.

(6) Nothing in clause (5) shall require the authority making any such order as is referred to in that clause to disclose facts which such authority considers to be against the public interest to disclose.

(7) Parliament may by law prescribe—

*(a) the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer than three months under any law providing for preventive detention without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (a) of clause (4);

***(b)* the maximum period for which any person may in any class or classes of cases be detained under any law providing for preventive detention; and

(c) the procedure to be followed by an Advisory Board in an inquiry under ***[sub-clause (a) of clause (4)].

*Sub-clause (a) shall stand omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 3 (which is yet not in force, date to be notified later on).

**Sub-clause (b) shall stand relettered as sub-clause (a) by s. 3, *ibid.* (which is yet not in force, date to be notified later on).

***The words, letter and figure in brackets shall stand substituted as “clause (4)” by s. 3, *ibid.* (which is yet not in force, date to be notified later on).

*(Part III.—Fundamental Rights.—Arts. 23—26.)**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.

Prohibition of traffic in human beings and forced labour.

(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.

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.

Prohibition of employment of children in factories, etc.

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.

Freedom of conscience and free profession, practice and propagation of religion.

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law—

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

Explanation I.—The wearing and carrying of *kirpans* shall be deemed to be included in the profession of the Sikh religion.

Explanation II.—In sub-clause (b) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.

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

Freedom to manage religious affairs.

(a) to establish and maintain institutions for religious and charitable purposes;

(b) to manage its own affairs in matters of religion;

(Part III.—Fundamental Rights.—Arts. 26—30.)

(c) to own and acquire movable and immovable property; and

(d) to administer such property in accordance with law.

Freedom as to payment of taxes for promotion of any particular religion.

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.

Freedom as to attendance at religious instruction or religious worship in certain educational institutions.

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

(2) Nothing in clause (1) shall apply to an educational institution which is administered by the State but has been established under any endowment or trust which requires that religious instruction shall be imparted in such institution.

(3) No person attending any educational institution recognised by the State or receiving aid out of State funds shall be required to take part in any religious instruction that may be imparted in such institution or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person or, if such person is a minor, his guardian has given his consent thereto.

Cultural and Educational Rights

Protection of interests of minorities.

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 on grounds only of religion, race, caste, language or any of them.

Right of minorities to establish and administer educational institutions.

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

¹[(1A) In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority,

¹Ins. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 4 (w.e.f. 20-6-1979).

(Part III.—Fundamental Rights.—Arts. 30—31A.)

referred to in clause (1), the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause.]

(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.

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31. [*Compulsory acquisition of property.*] *Rep. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 6 (w.e.f. 20-6-1979).*

²[*Saving of Certain Laws*]

³[**31A.** ⁴(1) Notwithstanding anything contained in article 13, no law providing for—

Saving of laws providing for acquisition of estates, etc.

(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

¹The sub-heading "*Right to Property*" omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 5 (w.e.f. 20-6-1979).

²Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 3 (w.e.f. 3-1-1977).

³Ins. by the Constitution (First Amendment) Act, 1951, s. 4 (with retrospective effect).

⁴Subs. by the Constitution (Fourth Amendment) Act, 1955, s. 3, for cl. (1) (with retrospective effect).

(Part III.—Fundamental Rights.—Art. 31A.)

(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 ¹[article 14 or article 19]:

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

²[Provided further that where any law makes any provision for the acquisition by the State of any estate and where any land comprised therein is held by a person under his personal cultivation, it shall not be lawful for the State to acquire any portion of such land as is within the ceiling limit applicable to him under any law for the time being in force or any building or structure standing thereon or appurtenant thereto, unless the law relating to the acquisition of such land, building or structure, provides for payment of compensation at a rate which shall not be less than the market value thereof.]

(2) In this article,—

³[(a) the expression "estate" shall, in relation to any local area, have the same meaning as that expression or its local equivalent has in the existing law relating to land tenures in force in that area and shall also include—

(i) any *jagir*, *inam* or *muafi* or other similar grant and in the States of ⁴[Tamil Nadu] and Kerala, any *janmam* right;

¹Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 7, for "article 14, article 19 or article 31" (w.e.f. 20-6-1979).

²Ins. by the Constitution (Seventeenth Amendment) Act, 1964, s. 2.

³Subs. by s. 2, *ibid.*, for sub-clause (a) (with retrospective effect).

⁴Subs. by the Madras State (Alteration of Name) Act, 1968 (53 of 1968), s. 4, for "Madras". (w.e.f. 14-1-1969).

(Part III.—Fundamental Rights.—Arts. 31A—31C.)

(ii) any land held under ryotwari settlement;

(iii) any land held or let for purposes of agriculture or for purposes ancillary thereto, including waste land, forest land, land for pasture or sites of buildings and other structures occupied by cultivators of land, agricultural labourers and village artisans;]

(b) the expression "rights", in relation to an estate, shall include any rights vesting in a proprietor, sub-proprietor, under-proprietor, tenure-holder, ¹[*raiyat*, *under-raiyat*] or other intermediary and any rights or privileges in respect of land revenue.]

²[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 inconsistent with, or takes away or abridges any of the rights conferred by, any provisions of this Part, and notwithstanding any judgment, decree or order of any court or Tribunal to the contrary, each of the said Acts and Regulations shall, subject to the power of any competent Legislature to repeal or amend it, continue in force.]

Validation of certain Acts and Regulations.

³[31C. Notwithstanding anything contained in article 13, no law giving effect to the policy of the State towards securing ⁴[all or any of the principles laid down in Part IV] 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 ⁵[article 14 or article 19]; ⁶*and no law*

Saving of laws giving effect to certain directive principles.

¹Ins. by the Constitution (Fourth Amendment) Act, 1955, s. 3 (with retrospective effect).

²Ins. by the Constitution (First Amendment) Act, 1951, s. 5.

³Ins. by the Constitution (Twenty-fifth Amendment) Act, 1971, s. 3 (w.e.f. 20-4-1972).

⁴Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 4, for "the principles specified in clause (b) or clause (c) of article 39" (w.e.f. 3-1-1977). Section 4 has been declared invalid by the Supreme Court in *Minerva Mills Ltd. and others vs. Union of India and others* (1980) 2. S.C.C. 591.

⁵Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 8, for "article 14, article 19 or article 31" (w.e.f. 20-6-1979).

⁶In *Kesavananda Bharati vs. The State of Kerala*, (1973) Supp. S.C.R. 1, the Supreme Court held the provisions in italics to be invalid.

(Part III.—Fundamental Rights.—Arts. 31C—32A.)

containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy:

Provided that where such law is 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.

¹**31D.** [*Saving of laws in respect of anti-national activities.*] *Rep. by the Constitution (Forty-third Amendment) Act, 1977, s. 2 (w.e.f. 13-4-1978).*

Right to Constitutional Remedies

Remedies for enforcement of rights conferred by this Part.

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).

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

²**32A.** [*Constitutional validity of State laws not to be considered in proceedings under article 32.*] *Rep. by the Constitution (Forty-third Amendment) Act, 1977, s. 3 (w.e.f. 13-4-1978).*

¹Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 5 (w.e.f. 3-1-1977).

²Ins. by s. 6, *ibid.* (w.e.f. 1-2-1977).

(Part III.—Fundamental Rights.—Arts. 33—35.)

¹[33. Parliament may, by law, determine to what extent any of the rights conferred by this Part shall, in their application to,—

(a) the members of the Armed Forces; or

(b) the members of the Forces charged with the maintenance of public order; or

(c) persons employed in any bureau or other organisation established by the State for purposes of intelligence or counter intelligence; or

(d) person employed in, or in connection with, the telecommunication systems set up for the purposes of any Force, bureau or organisation referred to in clauses (a) to (c),

Power of Parliament to modify the rights conferred by this Part in their application to Forces, etc.

be restricted or abrogated so as to ensure the proper discharge of their duties and the maintenance of discipline among them.]

34. Notwithstanding anything in the foregoing provisions of this Part, Parliament may by law indemnify any person in the service of the Union or of a State or any other person in respect of any act done by him in connection with the maintenance or restoration of order in any area within the territory of India where martial law was in force or validate any sentence passed, punishment inflicted, forfeiture ordered or other act done under martial law in such area.

Restriction on rights conferred by this Part while martial law is in force in any area.

35. Notwithstanding anything in this Constitution,—

(a) Parliament shall have, and the Legislature of a State shall not have, power to make laws—

(i) with respect to any of the matters which under clause (3) of article 16, clause (3) of article 32, article 33 and article 34 may be provided for by law made by Parliament; and

(ii) for prescribing punishment for those acts which are declared to be offences under this Part;

Legislation to give effect to the provisions of this Part.

¹Subs. by the Constitution (Fiftieth Amendment) Act, 1984, s. 2, for art. 33.

(Part III.—Fundamental Rights.—Art. 35.)

and Parliament shall, as soon as may be after the commencement of this Constitution, make laws for prescribing punishment for the acts referred to in sub-clause (ii);

(b) any law in force immediately before the commencement of this Constitution in the territory of India with respect to any of the matters referred to in sub-clause (i) of clause (a) or providing for punishment for any act referred to in sub-clause (ii) of that clause shall, subject to the terms thereof and to any adaptations and modifications that may be made therein under article 372, continue in force until altered or repealed or amended by Parliament.

Explanation.—In this article, the expression “law in force” has the same meaning as in article 372.

PART IV

DIRECTIVE PRINCIPLES OF STATE POLICY

36. In this Part, unless the context otherwise requires, “the State” has the same meaning as in Part III.

Definition.

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.

Application of the principles contained in this Part.

38. ¹[(1)] 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.

State to secure a social order for the promotion of welfare of the people.

²[(2) The State shall, in particular, strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.]

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

Certain principles of policy to be followed by the State.

(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;

¹Art. 38 renumbered as cl. (1) thereof by the Constitution (Forty-fourth Amendment) Act, 1978, s. 9 (w.e.f. 20-6-1979).

²Ins. by s. 9, *ibid.* (w.e.f. 20-6-1979).

(Part IV.—Directive Principles of State Policy.—
Arts. 39—43.)

(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;

¹[(f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.]

Equal justice and
free legal aid.

²[39A. The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.]

Organisation of
village panchayats.

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.

Right to work, to
education and to
public assistance
in certain cases.

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.

Provision for just
and humane
conditions of work
and maternity
relief.

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

Living wage, etc.,
for workers.

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

¹Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 7, for cl. (f) (w.e.f. 3-1-1977).

²Ins. by s. 8, *ibid.* (w.e.f. 3-1-1977).

(Part IV.—*Directive Principles of State Policy.*—
Arts. 43—48A.)

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.

¹[43A. The State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organisations engaged in any industry.]

Participation of workers in management of industries.

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

Uniform civil code for the citizens.

*[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.]

Provision for free and compulsory education for children.

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.

Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections.

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 of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

Duty of the State to raise the level of nutrition and the standard of living and to improve public 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.

Organisation of agriculture and animal husbandry.

¹Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 9 (w.e.f. 3-1-1977).

*Art. 45 shall stand substituted by the Constitution (Eighty-sixth Amendment) Act, 2002, s. 3 (which is yet not in force, date to be notified later on) as—

“45. **Provision for early childhood care and education to children below the age of six years.**—The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.”.

(Part IV.—*Directive Principles of State Policy*.—
Arts. 48A—51.)

Protection and improvement of environment and safeguarding of forests and wild life.

¹[48A. The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.]

Protection of monuments and places and objects of national importance.

49. It shall be the obligation of the State to protect every monument or place or object of artistic or historic interest, ²[declared by or under law made by Parliament] to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export, as the case may be.

Separation of judiciary from executive.

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

Promotion of international peace and security.

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 organized peoples with one another; and

(d) encourage settlement of international disputes by arbitration.

¹Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 10 (w.e.f. 3-1-1977).

²Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 27, for "declared by Parliament by law".

¹[PART IVA FUNDAMENTAL DUTIES

51A. It shall be the duty of every citizen of India—

(a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;

(b) to cherish and follow the noble ideals which inspired our national struggle for freedom;

(c) to uphold and protect the sovereignty, unity and integrity of India;

(d) to defend the country and render national service when called upon to do so;

(e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;

(f) to value and preserve the rich heritage of our composite culture;

(g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;

(h) to develop the scientific temper, humanism and the spirit of inquiry and reform;

(i) to safeguard public property and to abjure violence;

(j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement;

*[(k) who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.]

Fundamental
duties.

¹Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 11 (w.e.f. 3-1-1977).

*Ins. by the Constitution (Eighty-sixth Amendment) Act, 2002, s. 4 (which is yet not in force, date to be notified later on).

PART V

THE UNION

CHAPTER I.—THE EXECUTIVE

The President and Vice-President

The President of India.

52. There shall be a President of India.

Executive power of the Union.

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.

Election of 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.

¹[*Explanation*.—In this article and in article 55, "State" includes the National Capital Territory of Delhi and the Union territory of *Pondicherry.]

¹Ins. by the Constitution (Seventieth Amendment) Act, 1992, s. 2 (w.e.f. 1-6-1995).

*Now Puducherry, *vide* the Pondicherry (Alteration of Name) Act, 2006, s. 3 (w.e.f. 1-10-2006).

(Part V.—*The Union*.—Art. 55.)

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.

Manner of election of President.

(2) For the purpose of securing such uniformity among the States *inter se* as well as parity between the States as a whole and the Union, the number of votes which each elected member of Parliament and of the Legislative Assembly of each State is entitled to cast at such election shall be determined in the following manner:—

(a) every elected member of the Legislative Assembly of a State shall have as many votes as there are multiples of one thousand in the quotient obtained by dividing the population of the State by the total number of the elected members of the Assembly;

(b) if, after taking the said multiples of one thousand, the remainder is not less than five hundred, then the vote of each member referred to in sub-clause (a) shall be further increased by one;

(c) each elected member of either House of Parliament shall have such number of votes as may be obtained by dividing the total number of votes assigned to the members of the Legislative Assemblies of the States under sub-clauses (a) and (b) by the total number of the elected members of both Houses of Parliament, fractions exceeding one-half being counted as one and other fractions being disregarded.

(3) 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.

¹[*Explanation*.—In this article, the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published:

Provided that the reference in this *Explanation* to the last preceding census of which the relevant figures have

¹Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 12, for the *Explanation* (w.e.f. 3-1-1977).

(Part V.—The Union.—Arts. 55—58.)

been published shall, until the relevant figures for the first census taken after the year ¹[2026] have been published, be construed as a reference to the 1971 census.]

Term of office of President.

56. (1) The President shall hold office for a term of five years from the date on which he enters upon his office:

Provided that—

(a) the President may, by writing under his hand addressed to the Vice-President, resign his office;

(b) the President may, for violation of the Constitution, be removed from office by impeachment in the manner provided in article 61;

(c) the President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

(2) Any resignation addressed to the Vice-President under clause (a) of the proviso to clause (1) shall forthwith be communicated by him to the Speaker of the House of the People.

Eligibility for re-election.

57. A person who holds, or who has held, office as President shall, subject to the other provisions of this Constitution, be eligible for re-election to that office.

Qualifications for election as President.

58. (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.

¹Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 2, for “2000”.

(Part V.—The Union.—Arts. 58—60.)

Explanation.—For the purposes of this article, a person shall not be deemed to hold any office of profit by reason only that he is the President or Vice-President of the Union or the Governor ^{1***} of any State or is a Minister either for the Union or for any State.

59. (1) The 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 President, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as President.

Conditions of
President's office.

(2) The President shall not hold any other office of profit.

(3) The President shall be entitled without payment of rent to the use of his official residences and shall be also 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.

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

60. Every President and every person acting as President or discharging the functions of the President shall, before entering upon his office, make and subscribe in the presence of the Chief Justice of India or, in his absence, the senior-most Judge of the Supreme Court available, an oath or affirmation in the following form, that is to say—

Oath or affirmation
by the President.

"I, A.B., do swear in the name of God that I will faithfully execute the office of President (or discharge the functions of the President) of India and will to the best of my ability preserve, protect and defend the

solemnly affirm

¹The words "or Rajpramukh or Uparajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

(Part V.—The Union.—Arts. 60—62.)

Constitution and the law and that I will devote myself to the service and well-being of the people of India”.

Procedure for
impeachment of
the President.

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

(2) No such charge shall be preferred unless—

(a) the proposal to prefer such charge is contained in a resolution which has been moved after at least fourteen days' notice in writing signed by not less than one-fourth of the total number of members of the House has been given of their intention to move the resolution, and

(b) such resolution has been passed by a majority of not less than two-thirds of the total membership of the House.

(3) When a charge has been so preferred by either House of Parliament, the other House shall investigate the charge or cause the charge to be investigated and the President shall have the right to appear and to be represented at such investigation.

(4) If as a result of the investigation a resolution is passed by a majority of not less than two-thirds of the total membership of the House by which the charge was investigated or caused to be investigated, declaring that the charge preferred against the President has been sustained, such resolution shall have the effect of removing the President from his office as from the date on which the resolution is so passed.

Time of holding
election to fill
vacancy in the
office of President
and the term of
office of person
elected to fill
casual vacancy.

62. (1) An election to fill a vacancy caused by the expiration of the term of office of President shall be completed before the expiration of the term.

(2) An election to fill a vacancy in the office of President occurring by reason of his death, resignation or removal, or otherwise shall be held as soon as possible after, and in no case later than six months from, the date of occurrence of the vacancy; and the person elected to fill the vacancy shall, subject to the provisions of article 56,

(Part V.—The Union.—Arts. 62—66.)

be entitled to hold office for the full term of five years from the date on which he enters upon his office.

63. There shall be a Vice-President of India.

The Vice-President of India.

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

The Vice-President to be *ex officio* Chairman of the Council of States.

Provided that during any period when the Vice-President acts as President or discharges the functions of the President under article 65, he shall not perform the duties of the office of Chairman of the Council of States and shall not be entitled to any salary or allowance payable to the Chairman of the Council of States under article 97.

65. (1) In the 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.

The Vice-President to act as President or to discharge his functions during casual vacancies in the office, or during the absence, of President.

(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 ¹[members of an electoral college consisting of the members of both Houses of Parliament] in accordance

Election of Vice-President.

¹Subs. by the Constitution (Eleventh Amendment) Act, 1961, s. 2, for "members of both Houses of Parliament assembled at a joint meeting".

(Part V.—The Union.—Arts. 66—67.)

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.

(3) No person shall be eligible for election as Vice-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 Council of States.

(4) A person shall not be eligible for election as Vice-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.

Explanation.—For the purposes of this article, a person shall not be deemed to hold any office of profit by reason only that he is the President or Vice-President of the Union or the Governor ^{1***} of any State or is a Minister either for the Union or for any State.

Term of office of
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:

Provided that—

(a) a Vice-President may, by writing under his hand addressed to the President, resign his office;

¹The words “or Rajpramukh or Uparajpramukh” omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

(Part V.—The Union.—Arts. 67—71.)

(b) a Vice-President may be removed from his office by a resolution of the Council of States passed by a majority of all the then members of the Council and agreed to by the House of the People; but no resolution for the purpose of this clause shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution;

(c) a Vice-President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

68. (1) An election to fill a vacancy caused by the expiration of the term of office of Vice-President shall be completed before the expiration of the term.

(2) An election to fill a vacancy in the office of Vice-President occurring by reason of his death, resignation or removal, or otherwise shall be held as soon as possible after the occurrence of the vacancy, and the person elected to fill the vacancy shall, subject to the provisions of article 67, be entitled to hold office for the full term of five years from the date on which he enters upon his office.

69. Every Vice-President shall, before entering upon his office, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation in the following form, that is to say—

“I, A.B., do swear in the name of God that I will bear true solemnly affirm

faith and allegiance to the Constitution of India as by law established and that I will faithfully discharge the duty upon which I am about to enter.”

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

¹[**71.** (1) All doubts and disputes arising out of or in connection with the election of a President or Vice-President shall be inquired into and decided by the Supreme Court whose decision shall be final.

Time of holding election to fill vacancy in the office of Vice-President and the term of office of person elected to fill casual vacancy.

Oath or affirmation by the Vice-President.

Discharge of President's functions in other contingencies.

Matters relating to, or connected with, the election of a President or Vice-President.

¹Art. 71 has been successively subs. by the Constitution (Thirty-ninth Amendment) Act, 1975, s. 2 (w.e.f. 10-8-1975) and the Constitution (Forty-fourth Amendment) Act, 1978, s. 10, to read as above (w.e.f. 20-6-1979).

(Part V.—The Union.—Arts. 71—72.)

(2) If the election of a person as President or Vice-President is declared void by the Supreme Court, acts done by him in the exercise and performance of the powers and duties of the office of President or Vice-President, as the case may be, on or before the date of the decision of the Supreme Court shall not be invalidated by reason of that declaration.

(3) Subject to the provisions of this Constitution, Parliament may by law regulate any matter relating to or connected with the election of a President or Vice-President.

(4) The election of a person as President or Vice-President shall not be called in question on the ground of the existence of any vacancy for whatever reason among the members of the electoral college electing him.]

Power of President to grant pardons, etc., and to suspend, remit or commute sentences in certain cases.

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.

(2) Nothing in sub-clause (a) of clause (1) shall affect the power conferred by law on any officer of the Armed Forces of the Union to suspend, remit or commute a sentence passed by a Court Martial.

(3) Nothing in sub-clause (c) of clause (1) shall affect the power to suspend, remit or commute a sentence of death exercisable by the Governor ^{1***} of a State under any law for the time being in force.

¹The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

(Part V.—The Union.—Arts. 73—74.)

73. (1) Subject to the provisions of this Constitution, the executive power of the Union shall extend—

Extent of executive power of the Union.

(a) to the matters with respect to which Parliament has power to make laws; and

(b) to the exercise of such rights, authority and jurisdiction as are exercisable by the Government of India by virtue of any treaty or agreement:

Provided that the executive power referred to in sub-clause (a) shall not, save as expressly provided in this Constitution or in any law made by Parliament, extend in any State ^{1***} to matters with respect to which the Legislature of the State has also power to make laws.

(2) Until otherwise provided by Parliament, a State and any officer or authority of a State may, notwithstanding anything in this article, continue to exercise in matters with respect to which Parliament has power to make laws for that State such executive power or functions as the State or officer or authority thereof could exercise immediately before the commencement of this Constitution.

Council of Ministers

74. ²[(1) There shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President who shall, in the exercise of his functions, act in accordance with such advice:]

Council of Ministers to aid and advise President.

³[Provided that the President may require the Council of Ministers to reconsider such advice, either generally or otherwise, and the President shall act in accordance with the advice tendered after such reconsideration.]

(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.

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.

²Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 13, for cl. (1) (w.e.f. 3-1-1977).

³Ins. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 11 (w.e.f. 20-6-1979).

(Part V.—The Union.—Arts. 75—76.)

Other provisions as
to Ministers.

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.

¹[(1A) The total number of Ministers, including the Prime Minister, in the Council of Ministers shall not exceed fifteen per cent. of the total number of members of the House of the People.

(1B) A member of either House of Parliament belonging to any political party who is disqualified for being a member of that House under paragraph 2 of the Tenth Schedule shall also be disqualified to be appointed as a Minister under clause (1) for duration of the period commencing from the date of his disqualification till the date on which the term of his office as such member would expire or where he contests any election to either House of Parliament before the expiry of such period, till the date on which he is declared elected, whichever is earlier.]

(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

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

¹Ins. by the Constitution (Ninety-first Amendment) Act, 2003, s. 2.

(Part V.—The Union.—Arts. 76—78.)

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.

Conduct of business of the Government of India.

(2) Orders and other instruments made and executed in the name of the President shall be authenticated in such manner as may be specified in rules¹ to be made by the President, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the President.

(3) The President shall make rules for the more convenient transaction of the business of the Government of India, and for the allocation among Ministers of the said business.

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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

Duties of Prime Minister as respects the furnishing of information to the President, etc.

¹See Notification No. S. O. 2297, dated the 3rd November, 1958, Gazette of India, Extraordinary, 1958, Pt. II, Sec. 3(ii), p. 1315, as amended from time to time.

²Cl. (4) was ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 14 (w.e.f. 3-1-1977) and omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 12 (w.e.f. 20-6-1979).

(Part V.—The Union.—Arts. 78—80.)

(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

Constitution of
Parliament.

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.

Composition of the
Council of States.

80. (1) ¹[^{2***} 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 ³[and of the Union territories.]

(2) The allocation of seats in the Council of States to be filled by representatives of the States ³[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 ^{4***} 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 ⁵[Union territories] in the Council of States shall be chosen in such manner as Parliament may by law prescribe.

¹Subs. by the Constitution (Thirty-fifth Amendment) Act, 1974, s. 3, for "The Council of States" (w.e.f. 1-3-1975).

²The words "subject to the provisions of paragraph 4 of the Tenth Schedule" omitted by the Constitution (Thirty-sixth Amendment) Act, 1975, s. 5 (w.e.f. 26-4-1975).

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

⁴The words and letters "specified in Part A or Part B of the First Schedule" omitted by s. 3, *ibid.*

⁵Subs. by s. 3, *ibid.*, for "States specified in Part C of the First Schedule".

(Part V.—*The Union.*—Art. 81.)

¹[81. (1) ²[Subject to the provisions of article 331 ^{3***}], the House of the People shall consist of—

Composition of the House of the People.

(a) not more than ⁴[five hundred and thirty members] chosen by direct election from territorial constituencies in the States, and

(b) not more than ⁵[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:

⁶[Provided that the provisions of sub-clause (a) of this clause shall not be applicable for the purpose of allotment of seats in the House of the People to any State so long as the population of that State does not exceed six millions.]

(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:

⁷[Provided that the reference in this clause to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year ⁸[2026] have been published, ⁹[be construed,—

¹Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 4, for arts. 81 and 82.

²Subs. by the Constitution (Thirty-fifth Amendment) Act, 1974 s. 4, for “Subject to the provisions of article 331” (w.e.f. 1-3-1975).

³The words and figure “and paragraph 4 of the Tenth Schedule” omitted by the Constitution (Thirty-sixth Amendment) Act, 1975, s. 5 (w.e.f. 26-4-1975).

⁴Subs. by the Goa, Daman and Diu Reorganisation Act, 1987 (18 of 1987), s. 63, for “five hundred and twenty-five members” (w.e.f. 30-5-1987).

⁵Subs. by the Constitution (Thirty-first Amendment) Act, 1973, s. 2, for “twenty-five members”.

⁶Ins. by s. 2, *ibid.*

⁷Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 15 (w.e.f. 3-1-1977).

⁸Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 3, for “2000”.

⁹Subs. by s. 3, *ibid.*, for certain words.

(Part V.—The Union.—Arts. 81—83.)

(i) for the purposes of sub-clause (a) of clause (2) and the proviso to that clause, as a reference to the 1971 census; and

(ii) for the purposes of sub-clause (b) of clause (2) as a reference to the ¹[2001] census.]]

Readjustment after each census.

82. Upon the completion of each census, the allocation of seats in the House of the People to the States and the division of each State into territorial constituencies shall be readjusted by such authority and in such manner as Parliament may by law determine:

Provided that such readjustment shall not affect representation in the House of the People until the dissolution of the then existing House:

²[Provided further that such readjustment shall take effect from such date as the President may, by order, specify and until such readjustment takes effect, any election to the House may be held on the basis of the territorial constituencies existing before such readjustment:

Provided also that until the relevant figures for the first census taken after the year ³[2026] have been published, it shall not be necessary to ⁴[readjust—

(i) the allocation of seats in the House of People to the States as readjusted on the basis of the 1971 census; and

(ii) the division of each State into territorial constituencies as may be readjusted on the basis of the ⁵[2001] census,

under this article.]]

Duration of Houses of Parliament.

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.

¹Subs. by the Constitution (Eighty-seventh Amendment) Act, 2003, s. 2, for "1991".

²Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 16 (w.e.f. 3-1-1977).

³Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 4, for "2000".

⁴Subs. by s. 4, *ibid.*, for certain words.

⁵Subs. by the Constitution (Eighty-seventh Amendment) Act, 2003, s. 3, for "1991".

(Part V.—The Union.—Arts. 83—86.)

(2) The House of the People, unless sooner dissolved, shall continue for ¹[five years] from the date appointed for its first meeting and no longer and the expiration of the said period of ¹[five years] shall operate as a dissolution of the House:

Provided that the said period may, while a Proclamation of Emergency is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.

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

Qualification for membership of Parliament.

²[(a) is a citizen of India, and makes and subscribes before some person authorised in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule;]

(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.

³[**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.

Sessions of Parliament, prorogation and dissolution.

(2) The President may from time to time—

(a) prorogue the Houses or either House;

(b) dissolve the House of the People.]

86. (1) The President may address either House of Parliament or both Houses assembled together, and for that purpose require the attendance of members.

Right of President to address and send messages to Houses.

¹Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 13, for “six years” (w.e.f. 20-6-1979). The words “six years” were subs. for the original words “five years” by the Constitution (Forty-second Amendment) Act, 1976, s. 17 (w.e.f. 3-1-1977).

²Subs. by the Constitution (Sixteenth Amendment) Act, 1963, s. 3, for cl. (a).

³Subs. by the Constitution (First Amendment) Act, 1951, s. 6, for art. 85.

(Part V.—The Union.—Arts. 86—90.)

(2) The President may send messages to either House of Parliament, whether with respect to a Bill then pending in Parliament or otherwise, and a House to which any message is so sent shall with all convenient despatch consider any matter required by the message to be taken into consideration.

Special address by the President.

87. (1) At the commencement of ¹[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 ^{2***}.

Rights of Ministers and Attorney-General as respects Houses.

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

The Chairman and Deputy Chairman of the Council of States.

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.

Vacation and resignation of, and removal from, the office of Deputy Chairman.

90. A member holding office as Deputy Chairman of the Council of States—

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

(b) may at any time, by writing under his hand addressed to the Chairman, resign his office; and

(c) may be removed from his office by a resolution of the Council passed by a majority of all the then members of the Council:

¹Subs. by the Constitution (First Amendment) Act, 1951, s. 7, for “every session”.

²The words “and for the precedence of such discussion over other business of the House” omitted by s. 7, *ibid.*

(Part V.—The Union.—Arts. 90—93.)

Provided that no resolution for the purpose of clause (c) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution.

91. (1) While the office of Chairman is vacant, or during any period when the Vice-President is acting as, or discharging the functions of, President, the duties of the office shall be performed by the Deputy Chairman, or, if the office of Deputy Chairman is also vacant, by such member of the Council of States as the President may appoint for the purpose.

Power of the Deputy Chairman or other person to perform the duties of the office of, or to act as, Chairman.

(2) During the absence of the Chairman from any sitting of the Council of States the Deputy Chairman, or, if he is also absent, such person as may be determined by the rules of procedure of the Council, or, if no such person is present, such other person as may be determined by the Council, shall act as Chairman.

92. (1) At any sitting of the Council of States, while any resolution for the removal of the Vice-President from his office is under consideration, the Chairman, or while any resolution for the removal of the Deputy Chairman from his office is under consideration, the Deputy Chairman, shall not, though he is present, preside, and the provisions of clause (2) of article 91 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Chairman, or, as the case may be, the Deputy Chairman, is absent.

The Chairman or the Deputy Chairman not to preside while a resolution for his removal from office is under consideration.

(2) The Chairman shall have the right to speak in, and otherwise to take part in the proceedings of, the Council of States while any resolution for the removal of the Vice-President from his office is under consideration in the Council, but, notwithstanding anything in article 100, shall not be entitled to vote at all on such resolution or on any other matter during such proceedings.

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.

The Speaker and Deputy Speaker of the House of the People.

(Part V.—The Union.—Arts. 94—96.)

Vacation and resignation of, and removal from, the offices of Speaker and Deputy Speaker.

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

(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:

Provided that no resolution for the purpose of clause (c) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution:

Provided further that, whenever the House of the People is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the House of the People after the dissolution.

Power of the Deputy Speaker or other person to perform the duties of the office of, or to act as, Speaker.

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

(2) During the absence of the Speaker from any sitting of the House of the People the Deputy Speaker or, if he is also absent, such person as may be determined by the rules of procedure of the House, or, if no such person is present, such other person as may be determined by the House, shall act as Speaker.

The Speaker or the Deputy Speaker not to preside while a resolution for his removal from office is under consideration.

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

(Part V.—*The Union*.—Arts. 96—98.)

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 on 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.

Salaries and allowances of the Chairman and Deputy Chairman and the Speaker and Deputy Speaker.

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

Secretariat of Parliament.

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.

(Part V.—*The Union*.—Arts. 99—101.)

Conduct of Business

Oath or affirmation
by members.

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.

Voting in Houses,
power of Houses
to act
notwithstanding
vacancies and
quorum.

100. (1) Save as otherwise provided in this Constitution, all questions at any sitting of either House or joint sitting of the Houses shall be determined by a majority of votes of the members present and voting, other than the Speaker or person acting as Chairman or Speaker.

The Chairman or Speaker, or person acting as such, shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.

(2) Either House of Parliament shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in Parliament shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do sat or voted or otherwise took part in the proceedings.

(3) Until Parliament by law otherwise provides, the quorum to constitute a meeting of either House of Parliament shall be one-tenth of the total number of members of the House.

(4) If at any time during a meeting of a House there is no quorum, it shall be the duty of the Chairman or Speaker, or person acting as such, either to adjourn the House or to suspend the meeting until there is a quorum.

Disqualifications of Members

Vacation of seats.

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.

(Part V.—The Union.—Art. 101.)

(2) No person shall be a member both of Parliament and of a House of the Legislature of a State ^{1***}, and if a person is chosen a member both of Parliament and of a House of the Legislature of ²[a State], then, at the expiration of such period as may be specified in rules³ 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.

(3) If a member of either House of Parliament—

(a) becomes subject to any of the disqualifications mentioned in ⁴[clause (1) or clause (2) of article 102], or

⁵[(b) resigns his seat by writing under his hand addressed to the Chairman or the Speaker, as the case may be, and his resignation is accepted by the Chairman or the Speaker, as the case may be,]

his seat shall thereupon become vacant:

⁶[Provided that in the case of any resignation referred to in sub-clause (b), if from information received or otherwise and after making such inquiry as he thinks fit, the Chairman or the Speaker, as the case may be, is satisfied that such resignation is not voluntary or genuine, he shall not accept such resignation.]

(4) If for a period of sixty days a member of either House of Parliament is without permission of the House absent from all meetings thereof, the House may declare his seat vacant:

Provided that in computing the said period of sixty days no account shall be taken of any period during

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.

²Subs. by s. 29 and Sch., *ibid.*, "such a State".

³See 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.

⁴Subs. by the Constitution (Fifty-second Amendment) Act, 1985, s. 2, for "clause (1) of article 102" (w.e.f. 1-3-1985).

⁵Subs. by the Constitution (Thirty-third Amendment) Act, 1974, s. 2, for sub-clause (b).

⁶Ins. by s. 2, *ibid.*

(Part V.—The Union.—Arts. 101—103.)

which the House is prorogued or is adjourned for more than four consecutive days.

Disqualifications
for membership.

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 acknowledgment of allegiance or adherence to a foreign State;

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

¹[*Explanation.*—For the purposes of this clause] 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.

²[(2) A person shall be disqualified for being a member of either House of Parliament if he is so disqualified under the Tenth Schedule.]

Decision on
questions as to
disqualifications of
members.

³[**103.** (1) If any question arises as to whether a member of either House of Parliament has become subject to any of the disqualifications mentioned in clause (1) of article 102, the question shall be referred for the decision of the President and his decision shall be final.

¹Subs. by the Constitution (Fifty-second Amendment) Act, 1985, s. 3, for “(2) For the purposes of this article” (w.e.f. 1-3-1985)

²Ins. by s. 3, *ibid.* (w.e.f. 1-3-1985).

³Art. 103 has been successively subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 20 (w.e.f. 3-1-1977) and the Constitution (Forty-fourth Amendment) Act, 1978, s. 14 to read as above (w.e.f. 20-6-1979).

(Part V.—The Union.—Arts. 103—105.)

(2) Before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion.]

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.

Penalty for sitting and voting before making oath or affirmation under article 99 or when not qualified or when disqualified.

*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.

Powers, privileges, etc., of the Houses of Parliament and of the members and committees thereof.

(2) No member of Parliament shall be liable to any proceedings in any court in respect of any thing 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, ¹[shall be those of that House and of its members and committees immediately before the coming into force of section 15 of the Constitution (Forty-fourth Amendment) Act, 1978.]

(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

¹Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 15, for certain words (w.e.f. 20-6-1979).

(Part V.—*The Union*.—Arts. 105—108.)

take part in the proceedings of, a House of Parliament or any committee thereof as they apply in relation to members of Parliament.

Salaries and allowances of members.

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

Provisions as to introduction and passing of Bills.

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.

Joint sitting of both Houses in certain cases.

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

(Part V.—*The Union*.—Art. 108.)

(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 elapsed 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 this 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;

(Part V.—The Union.—Arts. 108-109.)

(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.

Special procedure
in respect of
Money Bills.

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 recommendations 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

(Part V.—*The Union*.—Arts. 109-110.)

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:—

Definition of
“Money Bills”.

(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 be 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.

(Part V.—The Union.—Arts. 110—112.)

(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.

Assent to Bills.

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

Annual financial statement.

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

(Part V.—The Union.—Art. 112.)

(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.

(3) The following expenditure shall be expenditure charged on the Consolidated Fund of India—

(a) the emoluments and allowances of the President and other expenditure relating to his office;

(b) the salaries and allowances of the Chairman and the Deputy Chairman of the Council of States and the Speaker and the Deputy Speaker of the House of the People;

(c) debt charges for which the Government of India is liable including interest, sinking fund charges and redemption charges, and other expenditure relating to the raising of loans and the service and redemption of debt;

(d) (i) the salaries, allowances and pensions payable to or in respect of Judges of the Supreme Court;

(ii) the pensions payable to or in respect of Judges of the Federal Court;

(iii) the pensions payable to or in respect of Judges of any High Court which exercises jurisdiction in relation to any area included in the territory of India or which at any time before the commencement of this Constitution exercised jurisdiction in relation to any area included in ¹[a Governor's Province of the Dominion of India];

(e) the salary, allowances and pension payable to or in respect of the Comptroller and Auditor-General of India;

¹Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch., for “a Province corresponding to a State specified in Part A of the First Schedule”.

(Part V.—*The Union*.—Arts. 112—114.)

(f) any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal;

(g) any other expenditure declared by this Constitution or by Parliament by law to be so charged.

Procedure in
Parliament with
respect to
estimates.

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.

Appropriation
Bills.

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.

(2) No amendment shall be proposed to any such Bill in either House of Parliament which will have the effect of varying the amount or altering the destination of any grant so made or of varying the amount of any expenditure charged on the Consolidated Fund of India, and the decision of the person presiding as to whether an amendment is inadmissible under this clause shall be final.

(Part V.—*The Union*.—Arts. 114—116.)

(3) Subject to the provisions of articles 115 and 116, no money shall be withdrawn from the Consolidated Fund of India except under appropriation made by law passed in accordance with the provisions of this article.

115. (1) The President shall—

(a) if the amount authorised by any law made in accordance with the provisions of article 114 to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year, or

(b) if any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year,

Supplementary,
additional or
excess grants.

cause to be laid before both the Houses of Parliament another statement showing the estimated amount of that expenditure or cause to be presented to the House of the People a demand for such excess, as the case may be.

(2) The provisions of articles 112, 113 and 114 shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorising the appropriation of moneys out of the Consolidated Fund of India to meet such expenditure or the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet such expenditure or grant.

116. (1) Notwithstanding anything in the foregoing provisions of this Chapter, the House of the People shall have power—

(a) to make any grant in advance in respect of the estimated expenditure for a part of any financial

Votes on account,
votes of credit
and exceptional
grants.

(Part V.—The Union.—Arts. 116-117.)

year pending the completion of the procedure prescribed in article 113 for the voting of such grant and the passing of the law in accordance with the provisions of article 114 in relation to that expenditure;

(b) to make a grant for meeting an unexpected demand upon the resources of India when on account of the magnitude or the indefinite character of the service the demand cannot be stated with the details ordinarily given in an annual financial statement;

(c) to make an exceptional grant which forms no part of the current service of any financial year;

and Parliament shall have power to authorise by law the withdrawal of moneys from the Consolidated Fund of India for the purposes for which the said grants are made.

(2) The provisions of articles 113 and 114 shall have effect in relation to the making of any grant under clause (1) and to any law to be made under that clause as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet such expenditure.

Special provisions
as to financial Bills.

117. (1) A Bill or amendment making provision for any of the matters specified in sub-clauses (a) to (f) of clause (1) of article 110 shall not be introduced or moved except on the recommendation of the President and a Bill making such provision shall not be introduced in the Council of States:

Provided that no recommendation shall be required under this clause for the moving of an amendment making provision for the reduction or abolition of any tax.

(2) A Bill or amendment shall not be deemed to make provision for any of the matters aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission,

(Part V.—*The Union*.—Arts. 117—119.)

alteration or regulation of any tax by any local authority or body for local purposes.

(3) A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of India shall not be passed by either House of Parliament unless the President has recommended to that House the consideration of the Bill.

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.

Rules of
procedure.

(2) Until rules are made under clause (1), the rules of procedure and standing orders in force immediately before the commencement of this Constitution with respect to the Legislature of the Dominion of India shall have effect in relation to Parliament subject to such modifications and adaptations as may be made therein by the Chairman of the Council of States or the Speaker of the House of the People, as the case may be.

(3) The President, after consultation with the Chairman of the Council of States and the Speaker of the House of the People, may make rules as to the procedure with respect to joint sittings of, and communications between, the two Houses.

(4) At a joint sitting of the two Houses the Speaker of the House of the People, or in his absence such person as may be determined by rules of procedure made under clause (3), shall preside.

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 or standing order having

Regulation by law
of procedure in
Parliament in
relation to financial
business.

(Part V.—The Union.—Arts. 119—123.)

effect in relation to Parliament under clause (2) of that article, such provision shall prevail.

Language to be used in Parliament.

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.

Restriction on discussion in Parliament.

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.

Courts not to inquire into proceedings of Parliament.

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

Power of President to promulgate Ordinances during recess of Parliament.

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—

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

(3) If and so far as an Ordinance under this article makes any provision which Parliament would not under this Constitution be competent to enact, it shall be void.

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124. (1) There shall be a Supreme Court of India consisting of a Chief Justice of India and, until Parliament by law prescribes a larger number, of not more than seven² other Judges.

Establishment and constitution of Supreme Court.

(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:

Provided that in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of India

¹Cl. (4) was ins. by the Constitution (Thirty-eighth Amendment) Act, 1975, s. 2 (retrospectively) and omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 16 (w.e.f. 20-6-1979).

²Now "twenty-five", *vide* the Supreme Court (Number of Judges) Amendment Act, 1986 (22 of 1986), s. 2.

(Part V.—The Union.—Art. 124.)

shall always be consulted:

Provided further that—

(a) a Judge may, by writing under his hand addressed to the President, resign his office;

(b) a Judge may be removed from his office in the manner provided in clause (4).

¹[(2A) The age of a Judge of the Supreme Court shall be determined by such authority and in such manner as Parliament may by law provide.]

(3) A person shall not be qualified for appointment as a Judge of the Supreme Court unless he is a citizen of India and—

(a) has been for at least five years a Judge of a High Court or of two or more such Courts in succession; or

(b) has been for at least ten years an advocate of a High Court or of two or more such Courts in succession; or

(c) is, in the opinion of the President, a distinguished jurist.

Explanation I.—In this clause "High Court" means a High Court which exercises, or which at any time before the commencement of this Constitution exercised, jurisdiction in any part of the territory of India.

Explanation II.—In computing for the purpose of this clause the period during which a person has been an advocate, any period during which a person has held judicial office not inferior to that of a district judge after he became an advocate shall be included.

(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 the total membership of that House and by a majority of not less than two-thirds of the members of that House present and

¹Ins. by the Constitution (Fifteenth Amendment) Act, 1963, s. 2.

(Part V.—The Union.—Arts. 124—126.)

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).

(6) Every person appointed to be a Judge of the Supreme Court shall, before he enters upon his office, 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.

(7) No person who has held office as a Judge of the Supreme Court shall plead or act in any court or before any authority within the territory of India.

125. ¹[(1) There shall be paid to the Judges of the Supreme Court such salaries as may be determined by Parliament by law and, until provision in that behalf is so made, such salaries as are specified in the Second Schedule.]

Salaries, etc., of Judges.

(2) Every Judge shall be entitled to such privileges and allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by or under law made by Parliament and, until so determined, to such privileges, allowances and rights as are specified in the Second Schedule:

Provided that neither the privileges nor the allowances of a Judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment.

126. When the office of Chief Justice of India is vacant or when the Chief Justice is, by reason of absence or otherwise, unable to perform the duties of his office,

Appointment of acting Chief Justice.

¹Subs. by the Constitution (Fifty-fourth Amendment) Act, 1986, s. 2, for cl. (1) (w.e.f. 1-4-1986).

(Part V.—The Union.—Arts. 126—128.)

the duties of the office shall be performed by such one of the other Judges of the Court as the President may appoint for the purpose.

Appointment of
ad hoc Judges.

127. (1) If at any time there should not be a quorum of the Judges of the Supreme Court available to hold or continue any session of the Court, the Chief Justice of India may, with the previous consent of the President and after consultation with the Chief Justice of the High Court concerned, request in writing the attendance at the sittings of the Court, as an *ad hoc* Judge, for such period as may be necessary, of a Judge of a High Court duly qualified for appointment as a Judge of the Supreme Court to be designated by the Chief Justice of India.

(2) It shall be the duty of the Judge who has been so designated, in priority to other duties of his office, to attend the sittings of the Supreme Court at the time and for the period for which his attendance is required, and while so attending he shall have all the jurisdiction, powers and privileges, and shall discharge the duties, of a Judge of the Supreme Court.

Attendance of
retired Judges at
sittings of the
Supreme Court.

128. Notwithstanding anything in this Chapter, the Chief Justice of India may at any time, with the previous consent of the President, request any person who has held the office of a Judge of the Supreme Court or of the Federal Court ¹[or who has held the office of a Judge of a High Court and is duly qualified for appointment as a Judge of the Supreme Court] to sit and act as a Judge of the Supreme Court, and every such person so requested shall, while so sitting and acting, be entitled to such allowances as the President may by order determine and have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a Judge of that Court:

Provided that nothing in this article shall be deemed to require any such person as aforesaid to sit and act as a Judge of that Court unless he consents so to do.

¹Ins. by the Constitution (Fifteenth Amendment) Act, 1963, s. 3.

(Part V.—The Union.—Arts. 129—132.)

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.

Supreme Court to be a court of record.

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.

Seat of Supreme Court.

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—

Original jurisdiction of the Supreme Court.

(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:

¹[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.]

²**131A.** [*Exclusive jurisdiction of the Supreme Court in regard to questions as to constitutional validity of Central laws.*] *Rep. by the Constitution (Forty-third Amendment) Act, 1977, s. 4 (w.e.f. 13-4-1978).*

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

Appellate jurisdiction of Supreme Court in appeals from High Courts in certain cases.

¹Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 5, for the proviso.

²Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 23 (w.e.f. 1-2-1977).

(Part V.—The Union.—Arts. 132-133.)

other proceeding, ¹[if the High Court certifies under article 134A] that the case involves a substantial question of law as to the interpretation of this Constitution.

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(3) Where such a certificate is given, ^{3***} any party in the case may appeal to the Supreme Court on the ground that any such question as aforesaid has been wrongly decided ^{3***}.

Explanation.—For the purposes of this article, the expression “final order” includes an order deciding an issue which, if decided in favour of the appellant, would be sufficient for the final disposal of the case.

Appellate jurisdiction of Supreme Court in appeals from High Courts in regard to civil matters.

133. ⁴[(1) An appeal shall lie to the Supreme Court from any judgment, decree or final order in a civil proceeding of a High Court in the territory of India ⁵[if the High Court certifies under article 134A—]

(a) that the case involves a substantial question of law of general importance; and

(b) that in the opinion of the High Court the said question needs to be decided by the Supreme Court.]

(2) Notwithstanding anything in article 132, any party appealing to the Supreme Court under clause (1) may urge as one of the grounds in such appeal that a substantial question of law as to the interpretation of this Constitution has been wrongly decided.

(3) Notwithstanding anything in this article, no appeal shall, unless Parliament by law otherwise provides, lie to the Supreme Court from the judgment, decree or final order of one Judge of a High Court.

¹Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 17, for “if the High Court certifies” (w.e.f. 1-8-1979).

²Cl. (2) omitted by s. 17, *ibid.* (w.e.f. 1-8-1979).

³Certain words omitted by s. 17, *ibid.* (w.e.f. 1-8-1979).

⁴Subs. by the Constitution (Thirtieth Amendment) Act, 1972, s. 2, for cl. (1) (w.e.f. 27-2-1973).

⁵Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 18, for “if the High Court certifies—” (w.e.f. 1-8-1979).

(Part V.—The Union.—Arts. 134-134A.)

134. (1) An appeal shall lie to the Supreme Court from any judgment, final order or sentence in a criminal proceeding of a High Court in the territory of India if the High Court—

Appellate jurisdiction of Supreme Court in regard to criminal matters.

(a) has on appeal reversed an order of acquittal of an accused person and sentenced him to death; or

(b) has withdrawn for trial before itself any case from any court subordinate to its authority and has in such trial convicted the accused person and sentenced him to death; or

(c) ¹[certifies under article 134A] that the case is a fit one for appeal to the Supreme Court:

Provided that an appeal under sub-clause (c) shall lie subject to such provisions as may be made in that behalf under clause (1) of article 145 and to such conditions as the High Court may establish or require.

(2) Parliament may by law confer on the Supreme Court any further powers to entertain and hear appeals from any judgment, final order or sentence in a criminal proceeding of a High Court in the territory of India subject to such conditions and limitations as may be specified in such law.

²[**134A.** Every High Court, passing or making a judgment, decree, final order, or sentence, referred to in clause (1) of article 132 or clause (1) of article 133, or clause (1) of article 134,—

Certificate for appeal to the Supreme Court.

(a) may, if it deems fit so to do, on its own motion; and

(b) shall, if an oral application is made, by or on behalf of the party aggrieved, immediately after the passing or making of such judgment, decree, final order or sentence,

determine, as soon as may be after such passing or making, the question whether a certificate of the nature

¹Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 19, for “certifies” (w.e.f. 1-8-1979).

²Ins. by s. 20, *ibid.* (w.e.f. 1-8-1979).

(Part V.—The Union.—Arts. 134A—139.)

referred to in clause (1) of article 132, or clause (1) of article 133 or, as the case may be, sub-clause (c) of clause (1) of article 134, may be given in respect of that case.]

Jurisdiction and powers of the Federal Court under existing law to be exercisable by the Supreme Court.

135. Until Parliament by law otherwise provides, the Supreme Court shall also have jurisdiction and powers with respect to any matter to which the provisions of article 133 or article 134 do not apply if jurisdiction and powers in relation to that matter were exercisable by the Federal Court immediately before the commencement of this Constitution under any existing law.

Special leave to appeal by the Supreme Court.

136. (1) Notwithstanding anything in this Chapter, the Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal in the territory of India.

(2) Nothing in clause (1) shall apply to any judgment, determination, sentence or order passed or made by any court or tribunal constituted by or under any law relating to the Armed Forces.

Review of judgments or orders by the Supreme Court.

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.

Enlargement of the jurisdiction of the Supreme Court.

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.

Conferment on the Supreme Court of powers to issue certain writs.

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.

(Part V.—The Union.—Arts. 139A—142.)

¹[**139A.** ²(1) Where cases involving the same or substantially the same questions of law are pending before the Supreme Court and one or more High Courts or before two or more High Courts and the Supreme Court is satisfied on its own motion or on an application made by the Attorney-General of India or by a party to any such case that such questions are substantial questions of general importance, the Supreme Court may withdraw the case or cases pending before the High Court or the High Courts and dispose of all the cases itself:

Transfer of certain cases.

Provided that the Supreme Court may after determining the said questions of law return any case so withdrawn together with a copy of its judgment on such questions to the High Court from which the case has been withdrawn, and the High Court shall on receipt thereof, proceed to dispose of the case in conformity with such judgment.]

(2) The Supreme Court may, if it deems it expedient so to do for the ends of justice, transfer any case, appeal or other proceedings pending before any High Court to any other High Court.]

140. Parliament may by law make provision for conferring upon the Supreme Court such supplemental powers not inconsistent with any of the provisions of this Constitution as may appear to be necessary or desirable for the purpose of enabling the Court more effectively to exercise the jurisdiction conferred upon it by or under this Constitution.

Ancillary powers of Supreme Court.

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

Law declared by Supreme Court to be binding on all courts.

142. (1) The Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it, and any decree so passed or

Enforcement of decrees and orders of Supreme Court and orders as to discovery, etc.

¹Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 24 (w.e.f. 1-2-1977).

²Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 21, for cl. (1) (w.e.f. 1-8-1979).

(Part V.—*The Union*.—Arts. 142—144A.)

order so made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, in such manner as the President may by order¹ prescribe.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Supreme Court shall, as respects the whole of the territory of India, have all and every power to make any order for the purpose of securing the attendance of any person, the discovery or production of any documents, or the investigation or punishment of any contempt of itself.

Power of President to consult Supreme Court.

143. (1) If at any time it appears to the President that a question of law or fact has arisen, or is likely to arise, which is of such a nature and of such public importance that it is expedient to obtain the opinion of the Supreme Court upon it, he may refer the question to that Court for consideration and the Court may, after such hearing as it thinks fit, report to the President its opinion thereon.

(2) The President may, notwithstanding anything in ^{2***} the proviso to article 131, refer a dispute of the kind mentioned in the ³[said proviso] to the Supreme Court for opinion and the Supreme Court shall, after such hearing as it thinks fit, report to the President its opinion thereon.

Civil and judicial authorities to act in aid of the Supreme Court.

144. All authorities, civil and judicial, in the territory of India shall act in aid of the Supreme Court.

⁴**144A.** [*Special provisions as to disposal of questions relating to constitutional validity of laws.*] Rep. by the Constitution (Forty-third Amendment) Act, 1977, s. 5 (w.e.f. 13-4-1978).

¹See the Supreme Court (Decrees and Orders) Enforcement Order, 1954 (C. O. 47).

²The words , brackets and figures "clause (i) of" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

³Subs. by s. 29 and Sch., *ibid.*, for "said clause".

⁴Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 25 (w.e.f. 1-2-1977).

(Part V.—The Union.—Art. 145.)

145. (1) Subject to the provisions of any law made by Parliament, the Supreme Court may from time to time, with the approval of the President, make rules for regulating generally the practice and procedure of the Court including—

Rules of Court, etc.

(a) rules as to the persons practising before the Court;

(b) rules as to the procedure for hearing appeals and other matters pertaining to appeals including the time within which appeals to the Court are to be entered;

(c) rules as to the proceedings in the Court for the enforcement of any of the rights conferred by Part III;

¹[(cc) rules as to the proceedings in the Court under ²[article 139A];]

(d) rules as to the entertainment of appeals under sub-clause (c) of clause (1) of article 134;

(e) rules as to the conditions subject to which any judgment pronounced or order made by the Court may be reviewed and the procedure for such review including the time within which applications to the Court for such review are to be entered;

(f) rules as to the costs of and incidental to any proceedings in the Court and as to the fees to be charged in respect of proceedings therein;

(g) rules as to the granting of bail;

(h) rules as to stay of proceedings;

(i) rules providing for the summary determination of any appeal which appears to the Court to be frivolous or vexatious or brought for the purpose of delay;

(j) rules as to the procedure for inquiries referred to in clause (1) of article 317.

¹Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 26 (w.e.f. 1-2-1977).

²Subs. by the Constitution (Forty-third Amendment) Act, 1977, s. 6, for "articles 131A and 139A" (w.e.f. 13-4-1978).

(Part V.—The Union.—Arts. 145-146.)

(2) Subject to the ¹[provisions of ^{2***} clause (3)], rules made under this article may fix the minimum number of Judges who are to sit for any purpose, and may provide for the powers of single Judges and Division Courts.

(3) ³[^{2***} The minimum number] of Judges who are to sit for the purpose of deciding any case involving a substantial question of law as to the interpretation of this Constitution or for the purpose of hearing any reference under article 143 shall be five:

Provided that, where the Court hearing an appeal under any of the provisions of this Chapter other than article 132 consists of less than five Judges and in the course of the hearing of the appeal the Court is satisfied that the appeal involves a substantial question of law as to the interpretation of this Constitution the determination of which is necessary for the disposal of the appeal, such Court shall refer the question for opinion to a Court constituted as required by this clause for the purpose of deciding any case involving such a question and shall on receipt of the opinion dispose of the appeal in conformity with such opinion.

(4) No judgment shall be delivered by the Supreme Court save in open Court, and no report shall be made under article 143 save in accordance with an opinion also delivered in open Court.

(5) No judgment and no such opinion shall be delivered by the Supreme Court save with the concurrence of a majority of the Judges present at the hearing of the case, but nothing in this clause shall be deemed to prevent a Judge who does not concur from delivering a dissenting judgment or opinion.

Officers and servants and the expenses of the Supreme Court.

146. (1) Appointments of officers and servants of the Supreme Court shall be made by the Chief Justice of India or such other Judge or officer of the Court as he may direct:

¹Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 26, for "provisions of clause (3)" (w.e.f. 1-2-1977).

²Certain words omitted by the Constitution (Forty-third Amendment) Act, 1977, s. 6 (w.e.f. 13-4-1978).

³Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 26, for "The minimum number" (w.e.f. 1-2-1977).

(Part V.—*The Union*.—Arts. 146—148.)

Provided that the President may by rule require that in such cases as may be specified in the rule, no person not already attached to the Court shall be appointed to any office connected with the Court, save after consultation with the Union Public Service Commission.

(2) Subject to the provisions of any law made by Parliament, the conditions of service of officers and servants of the Supreme Court shall be such as may be prescribed by rules made by the Chief Justice of India or by some other Judge or officer of the Court authorised by the Chief Justice of India to make rules for the purpose:

Provided that the rules made under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the President.

(3) The administrative expenses of the Supreme Court, including all salaries, allowances and pensions payable to or in respect of the officers and servants of the Court, shall be charged upon the Consolidated Fund of India, and any fees or other moneys taken by the Court shall form part of that Fund.

147. In this Chapter and in Chapter V of Part VI, references to any substantial question of law as to the interpretation of this Constitution shall be construed as including references to any substantial question of law as to the interpretation of the Government of India Act, 1935 (including any enactment amending or supplementing that Act), or of any Order in Council or order made thereunder, or of the Indian Independence Act, 1947, or of any order made thereunder.

Interpretation.

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.

Comptroller and Auditor-General of India.

(Part V.—The Union.—Arts. 148-149.)

(2) Every person appointed to be the Comptroller and Auditor-General of India shall, before he enters upon his office, 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.

(3) The salary and other conditions of service of the Comptroller and Auditor-General shall be such as may be determined by Parliament by law and, until they are so determined, shall be as specified in the Second Schedule:

Provided that neither the salary of a Comptroller and Auditor-General nor his rights in respect of leave of absence, pension or age of retirement shall be varied to his disadvantage after his appointment.

(4) The Comptroller and Auditor-General shall not be eligible for further office either under the Government of India or under the Government of any State after he has ceased to hold his office.

(5) Subject to the provisions of this Constitution and of any law made by Parliament, the conditions of service of persons serving in the Indian Audit and Accounts Department and the administrative powers of the Comptroller and Auditor-General shall be such as may be prescribed by rules made by the President after consultation with the Comptroller and Auditor-General.

(6) The administrative expenses of the office of the Comptroller and Auditor-General, including all salaries, allowances and pensions payable to or in respect of the persons serving in that office, shall be charged upon the Consolidated Fund of India.

Duties and powers of the Comptroller and Auditor-General.

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

(Part V.—The Union.—Arts. 149—151.)

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.

¹[150. The accounts of the Union and of the States shall be kept in such form as the President may, ²[on the advice of] the Comptroller and Auditor-General of India, prescribe.]

Form of accounts of the Union and of the States.

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.

Audit reports.

(2) The reports of the Comptroller and Auditor-General of India relating to the accounts of a State shall be submitted to the Governor ^{3***} of the State, who shall cause them to be laid before the Legislature of the State.

¹Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 27, for art. 150 (w.e.f. 1-4-1977).

²Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 22, for "after consultation with" (w.e.f. 20-6-1979).

³The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

PART VI

THE STATES ^{1***}

CHAPTER I.—GENERAL

Definition.

152. In this Part, unless the context otherwise requires, the expression “State” ²[does not include the State of Jammu and Kashmir].

CHAPTER II.—THE EXECUTIVE

The Governor

Governors of States.

153. There shall be a Governor for each State:

³[Provided that nothing in this article shall prevent the appointment of the same person as Governor for two or more States.]

Executive power of State.

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.

(2) Nothing in this article shall—

(a) be deemed to transfer to the Governor any functions conferred by any existing law on any other authority; or

(b) prevent Parliament or the Legislature of the State from conferring by law functions on any authority subordinate to the Governor.

Appointment of Governor.

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

Term of office of Governor.

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

¹The words “IN PART A OF THE FIRST SCHEDULE” omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

²Subs. by s. 29 and Sch., *ibid.*, for “means a State specified in Part A of the First Schedule”.

³Added by s. 6, *ibid.*

(Part VI.—The States.—Arts. 156—159.)

(2) The Governor may, by writing under his hand addressed to the President, resign his office.

(3) Subject to the foregoing provisions of this article, a Governor shall hold office for a term of five years from the date on which he enters upon his office:

Provided that a Governor shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

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.

Qualifications for appointment as Governor.

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.

Conditions of Governor's office.

(2) The Governor shall not hold any other office of profit.

(3) The Governor shall be entitled without payment of rent to the use of his official residences and shall be also 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.

¹[(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.

159. Every Governor and every person discharging the functions of the Governor shall, before entering upon his office, make and subscribe in the presence of the Chief Justice of the High Court exercising jurisdiction in relation to the State, or, in his absence, the seniormost

Oath or affirmation by the Governor.

¹Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 7.

(Part VI.—The States.—Arts. 159—163.)

Judge of that Court available, an oath or affirmation in the following form, that is to say—

“I, A. B., do swear in the name of God that I will faithfully solemnly affirm

execute the office of Governor (or discharge the functions of the Governor) of(*name of the State*) and will to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well-being of the people of(*name of the State*).”

Discharge of the functions of the Governor in certain contingencies.

160. The President may make such provision as he thinks fit for the discharge of the functions of the Governor of a State in any contingency not provided for in this Chapter.

Power of Governor to grant pardons, etc., and to suspend, remit or commute sentences in certain cases.

161. The Governor of a State 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 against any law relating to a matter to which the executive power of the State extends.

Extent of executive power of State.

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:

Provided that in any matter with respect to which the Legislature of a State and Parliament have power to make laws, the executive power of the State shall be subject to, and limited by, the executive power expressly conferred by this Constitution or by any law made by Parliament upon the Union or authorities thereof.

Council of Ministers

Council of Ministers to aid and advise Governor.

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 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.

(Part VI.—The States.—Arts. 163-164.)

(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.

164. (1) The Chief Minister shall be appointed by the Governor and the other Ministers shall be appointed by the Governor on the advice of the Chief Minister, and the Ministers shall hold office during the pleasure of the Governor:

Other provisions
as to Ministers.

Provided that in the States of ¹[Chhattisgarh, Jharkhand], Madhya Pradesh and Orissa, there shall be a Minister in charge of tribal welfare who may in addition be in charge of the welfare of the Scheduled Castes and backward classes or any other work.

²[(1A) The total number of Ministers, including the Chief Minister, in the Council of Ministers in a State shall not exceed fifteen per cent. of the total number of members of the Legislative Assembly of that State:

Provided that the number of Ministers, including the Chief Minister in a State shall not be less than twelve:

Provided further that where the total number of Ministers including the Chief Minister in the Council of Ministers in any State at the commencement of the Constitution (Ninety-first Amendment) Act, 2003 exceeds the said fifteen per cent. or the number specified in the first proviso, as the case may be, then the total number of Ministers in that State shall be brought in conformity with the provisions of this clause within six months from such date* as the President may by public notification appoint.

(1B) A member of the Legislative Assembly of a State or either House of the Legislature of a State having Legislative Council belonging to any political party who is disqualified for being a member of that House under paragraph 2 of the Tenth Schedule shall also be disqualified to be appointed as a Minister under clause (1) for duration of the period commencing from the date of his disqualification till the date on which the term of his office as such member would expire or where he contests any election to the Legislative Assembly of a State or either House of the Legislature of a State having Legislative Council, as the case may be, before the expiry of such period, till the date on which he is declared elected, whichever is earlier.]

¹Subs. by the Constitution (Ninety-fourth Amendment) Act, 2006, s. 2, for "Bihar".

²Ins. by the Constitution (Ninety-first Amendment) Act, 2003, s. 3.

*7-1-2004, vide S.O. 21(E), dated 7-1-2004.

(Part VI.—The States.—Arts. 164—166.)

(2) The Council of Ministers shall be collectively responsible to the Legislative Assembly of the State.

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

(4) A Minister who for any period of six consecutive months is not a member of the Legislature of the State shall at the expiration of that period cease to be a Minister.

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

The Advocate-General for the State

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

Conduct of
business of the
Government of a
State.

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

(2) Orders and other instruments made and executed in the name of the Governor shall be authenticated in such manner as may be specified in rules to be made by the Governor, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Governor.

(Part VI.—The States.—Arts. 166—168.)

(3) The Governor shall make rules for the more convenient transaction of the business of the Government of the State, and for the allocation among Ministers of the said business in so far as it is not business with respect to which the Governor is by or under this Constitution required to act in his discretion.

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

Duties of Chief Minister as respects the furnishing of information to Governor, etc.

(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

General

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

Constitution of Legislatures in States.

(a) in the States of ²[Andhra Pradesh,] Bihar, ^{3***}
⁴[Madhya Pradesh], ^{5***} ⁶[Maharashtra], ⁷[Karnataka], ^{8***}
⁹[and Uttar Pradesh], two Houses;

(b) in other States, one House.

¹Cl. (4) was ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 28 (w.e.f. 3-1-1977) and omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 23 (w.e.f. 20-6-1979).

²Ins. by the Andhra Pradesh Legislative Council Act, 2005 (1 of 2006), s. 3 (w.e.f. 30-3-2007).

³The word "Bombay" omitted by the Bombay Reorganisation Act, 1960 (11 of 1960), s. 20 (w.e.f. 1-5-1960).

⁴No date has been appointed under s. 8(2) of the Constitution (Seventh Amendment) Act, 1956, for the insertion of the words "Madhya Pradesh" in this sub-clause.

⁵The words "Tamil Nadu," omitted by Tamil Nadu Legislative Council (Abolition) Act, 1986 (40 of 1986), s. 4 (w.e.f. 1-11-1986).

⁶Ins. by the Bombay Reorganisation Act, 1960 (11 of 1960), s. 20 (w.e.f. 1-5-1960).

⁷Subs. by the Mysore State (Alteration of Name) Act, 1973 (31 of 1973), s. 4, for "Mysore" (w.e.f 1-11-1973), which was inserted by the Constitution (Seventh Amendment) Act, 1956, s. 8(1).

⁸The word "Punjab," omitted by the Punjab Legislative Council (Abolition) Act, 1969 (46 of 1969), s. 4 (w.e.f. 7-1-1970).

*Sups. by the West Bengal Legislative Council (Abolition) Act, 1969 (20 of 1969), s. 4, for "Uttar Pradesh and West Bengal" (w.e.f. 1-8-1969).

(Part VI.—The States.—Arts. 168—170.)

(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.

Abolition or
creation of
Legislative
Councils in
States.

169. (1) Notwithstanding anything in article 168, Parliament may by law provide for the abolition of the Legislative Council of a State having such a Council or for the creation of such a Council in a State having no such Council, if the Legislative Assembly of the State passes a resolution to that effect by a majority of the total membership of the Assembly and by a majority of not less than two-thirds of the members of the Assembly present and voting.

(2) Any law referred to in clause (1) shall contain such provisions for the amendment of this Constitution as may be necessary to give effect to the provisions of the law and may also contain such supplemental, incidental and consequential provisions as Parliament may deem necessary.

(3) No such law as aforesaid shall be deemed to be an amendment of this Constitution for the purposes of article 368.

Composition of
the Legislative
Assemblies.

¹[**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.

(2) For the purposes of clause (1), each State shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the State.

²[*Explanation.*—In this clause, the expression “population” means the population as ascertained at the last preceding census of which the relevant figures have been published:

¹Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 9, for art. 170.

²Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 29, for the *Explanation* (w.e.f. 3-1-1977).

(Part VI.—The States.—Arts. 170-171.)

Provided that the reference in this *Explanation* to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year ¹[2026] have been published, be construed as a reference to the ²[2001] census.]

(3) Upon the completion of each census, the total number of seats in the Legislative Assembly of each State and the division of each State into territorial constituencies shall be readjusted by such authority and in such manner as Parliament may by law determine:

Provided that such readjustment shall not affect representation in the Legislative Assembly until the dissolution of the then existing Assembly:]

³[Provided further that such readjustment shall take effect from such date as the President may, by order, specify and until such readjustment takes effect, any election to the Legislative Assembly may be held on the basis of the territorial constituencies existing before such readjustment:

Provided also that until the relevant figures for the first census taken after the year ¹[2026] have been published, it shall not be necessary to ⁴[readjust—

(i) the total number of seats in the Legislative Assembly of each State as readjusted on the basis of the 1971 census; and

(ii) the division of such State into territorial constituencies as may be readjusted on the basis of the ²[2001] census,

under this clause.]

171. (1) The total number of members in the Legislative Council of a State having such a Council shall not exceed ⁵[one-third] of the total number of members in the Legislative Assembly of that State:

Composition of
the Legislative
Councils.

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

¹Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 5, for “2000” and “1971” respectively.

²Subs. by the Constitution (Eighty-seventh Amendment) Act, 2003, s. 4, for “1991”.

³Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 29 (w.e.f. 3-1-1977).

⁴Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 5, for certain words.

⁵Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 10, for “one-fourth”.

(Part VI.—The States.—Art. 171.)

(2) Until Parliament by law otherwise provides, the composition of the Legislative Council of a State shall be as provided in clause (3).

(3) Of the total number of members of the Legislative Council of a State—

(a) as nearly as may be, one-third shall be elected by electorates consisting of members of municipalities, district boards and such other local authorities in the State as Parliament may by law specify;

(b) as nearly as may be, one-twelfth shall be elected by electorates consisting of persons residing in the State who have been for at least three years graduates of any university in the territory of India or have been for at least three years in possession of qualifications prescribed by or under any law made by Parliament as equivalent to that of a graduate of any such university;

(c) as nearly as may be, one-twelfth shall be elected by electorates consisting of persons who have been for at least three years engaged in teaching in such educational institutions within the State, not lower in standard than that of a secondary school, as may be prescribed by or under any law made by Parliament;

(d) as nearly as may be, one-third shall be elected by the members of the Legislative Assembly of the State from amongst persons who are not members of the Assembly;

(e) the remainder shall be nominated by the Governor in accordance with the provisions of clause (5).

(4) The members to be elected under sub-clauses (a), (b) and (c) of clause (3) shall be chosen in such territorial constituencies as may be prescribed by or under any law made by Parliament, and the elections under the said sub-clauses and under sub-clause (d) of the said clause shall be held in accordance with the system of proportional representation by means of the single transferable vote.

(5) The members to be nominated by the Governor under sub-clause (e) of clause (3) shall consist of persons

(Part VI.—The States.—Arts. 171—173.)

having special knowledge or practical experience in respect of such matters as the following, namely:—

Literature, science, art, co-operative movement and social service.

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

Duration of State Legislatures.

Provided that the said period may, while a Proclamation of Emergency is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.

(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.

173. A person shall not be qualified to be chosen to fill a seat in the Legislature of a State unless he—

Qualification for membership of the State Legislature.

²[(a) is a citizen of India, and makes and subscribes before some person authorised in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule;]

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

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

¹Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 24, for "six years" (w.e.f. 6-9-1979). The words "six years" were subs. for the original words "five years" by the Constitution (Forty-second Amendment) Act, 1976, s. 30 (w.e.f. 3-1-1977).

²Subs. by the Constitution (Sixteenth Amendment) Act, 1963, s. 4, for cl. (a).

(Part VI.—*The States.*—Arts. 174—177.)

Sessions of the State Legislature, prorogation and dissolution.

¹[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.]

Right of Governor to address and send messages to the House or Houses.

175. (1) The Governor may address the Legislative Assembly or, in the case of a State having a Legislative Council, either House of the Legislature of the State, or both Houses assembled together, and may for that purpose require the attendance of members.

(2) The Governor may send messages to the House or Houses of the Legislature of the State, whether with respect to a Bill then pending in the Legislature or otherwise, and a House to which any message is so sent shall with all convenient despatch consider any matter required by the message to be taken into consideration.

Special address by the Governor.

176. (1) At the commencement of ²[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 ^{3***}.

Rights of Ministers and Advocate-General as respects the Houses.

177. Every Minister and the Advocate-General for a State shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly of the State or, in the case of a State having a Legislative

¹Subs. by the Constitution (First Amendment) Act, 1951, s. 8, for art. 174.

²Subs. by s. 9, *ibid.* for "every session".

³The words "and for the precedence of such discussion over other business of the House" omitted by s. 9, *ibid.*

(Part VI.—*The States*.—Arts. 177—180.)

Council, both Houses, and to speak in, and otherwise to take part in the proceedings of, any committee of the Legislature of which he may be named a member, but shall not, by virtue of this article, be entitled to vote.

Officers of the State Legislature

178. Every Legislative Assembly of a State shall, as soon as may be, choose two members of the Assembly to be respectively Speaker and Deputy Speaker thereof and, so often as the office of Speaker or Deputy Speaker becomes vacant, the Assembly shall choose another member to be Speaker or Deputy Speaker, as the case may be.

The Speaker and Deputy Speaker of the Legislative Assembly.

179. A member holding office as Speaker or Deputy Speaker of an Assembly—

Vacation and resignation of, and removal from, the offices of Speaker and Deputy Speaker.

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

(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

(c) may be removed from his office by a resolution of the Assembly passed by a majority of all the then members of the Assembly:

Provided that no resolution for the purpose of clause (c) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution:

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

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

Power of the Deputy Speaker or other person to perform the duties of the office of, or to act as, Speaker.

(Part VI.—The States.—Arts. 180—183.)

(2) During the absence of the Speaker from any sitting of the Assembly the Deputy Speaker or, if he is also absent, such person as may be determined by the rules of procedure of the Assembly, or, if no such person is present, such other person as may be determined by the Assembly, shall act as Speaker.

The Speaker or the Deputy Speaker not to preside while a resolution for his removal from office is under consideration.

181. (1) At any sitting of the Legislative Assembly, 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 180 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 Legislative Assembly while any resolution for his removal from office is under consideration in the Assembly and shall, notwithstanding anything in article 189, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of an equality of votes.

The Chairman and Deputy Chairman of the Legislative Council.

182. The Legislative Council of every State having such Council shall, as soon as may be, choose two members of the Council to be respectively Chairman and Deputy Chairman thereof and, so often as the office of Chairman or Deputy Chairman becomes vacant, the Council shall choose another member to be Chairman or Deputy Chairman, as the case may be.

Vacation and resignation of, and removal from, the offices of Chairman and Deputy Chairman.

183. A member holding office as Chairman or Deputy Chairman of a Legislative Council—

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

(b) may at any time by writing under his hand addressed, if such member is the Chairman, to the

(Part VI.—The States.—Arts. 183—185.)

Deputy Chairman, and if such member is the Deputy Chairman, to the Chairman, resign his office; and

(c) may be removed from his office by a resolution of the Council passed by a majority of all the then members of the Council:

Provided that no resolution for the purpose of clause (c) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution.

184. (1) While the office of Chairman is vacant, the duties of the office shall be performed by the Deputy Chairman or, if the office of Deputy Chairman is also vacant, by such member of the Council as the Governor may appoint for the purpose.

Power of the Deputy Chairman or other person to perform the duties of the office of, or to act as, Chairman.

(2) During the absence of the Chairman from any sitting of the Council the Deputy Chairman or, if he is also absent, such person as may be determined by the rules of procedure of the Council, or, if no such person is present, such other person as may be determined by the Council, shall act as Chairman.

185. (1) At any sitting of the Legislative Council, while any resolution for the removal of the Chairman from his office is under consideration, the Chairman, or while any resolution for the removal of the Deputy Chairman from his office is under consideration, the Deputy Chairman, shall not, though he is present, preside, and the provisions of clause (2) of article 184 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Chairman or, as the case may be, the Deputy Chairman is absent.

The Chairman or the Deputy Chairman not to preside while a resolution for his removal from office is under consideration.

(2) The Chairman shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Council while any resolution for his removal from office is under consideration in the Council and shall, notwithstanding anything in article 189, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of an equality of votes.

(Part VI.—The States.—Arts. 186—189.)

Salaries and allowances of the Speaker and Deputy Speaker and the Chairman and Deputy Chairman.

186. There shall be paid to the Speaker and the Deputy Speaker of the Legislative Assembly, and to the Chairman and the Deputy Chairman of the Legislative Council, such salaries and allowances as may be respectively fixed by the Legislature of the State by law and, until provision in that behalf is so made, such salaries and allowances as are specified in the Second Schedule.

Secretariat of State Legislature.

187. (1) The House or each House of the Legislature of a State shall have a separate secretarial staff:

Provided that nothing in this clause shall, in the case of the Legislature of a State having a Legislative Council, be construed as preventing the creation of posts common to both Houses of such Legislature.

(2) The Legislature of a State may by law regulate the recruitment, and the conditions of service of persons appointed, to the secretarial staff of the House or Houses of the Legislature of the State.

(3) Until provision is made by the Legislature of the State under clause (2), the Governor may, after consultation with the Speaker of the Legislative Assembly or the Chairman of the Legislative Council, as the case may be, make rules regulating the recruitment, and the conditions of service of persons appointed, to the secretarial staff of the Assembly or the Council, and any rules so made shall have effect subject to the provisions of any law made under the said clause.

Conduct of Business

Oath or affirmation by members.

188. Every member of the Legislative Assembly or the Legislative Council of a State shall, before taking his seat, make and subscribe before the Governor, 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.

Voting in Houses, power of Houses to act notwithstanding vacancies and quorum.

189. (1) Save as otherwise provided in this Constitution, all questions at any sitting of a House of the Legislature of a State shall be determined by a majority of votes of the members present and voting, other than the Speaker or Chairman, or person acting as such.

(Part VI.—The States.—Arts. 189—190.)

The Speaker or Chairman, or person acting as such, shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.

(2) A House of the Legislature of a State shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in the Legislature of a State shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do sat or voted or otherwise took part in the proceedings.

(3) Until the Legislature of the State by law otherwise provides, the quorum to constitute a meeting of a House of the Legislature of a State shall be ten members or one-tenth of the total number of members of the House, whichever is greater.

(4) If at any time during a meeting of the Legislative Assembly or the Legislative Council of a State there is no quorum, it shall be the duty of the Speaker or Chairman, or person acting as such, either to adjourn the House or to suspend the meeting until there is a quorum.

Disqualifications of Members

190. (1) No person shall be a member of both Houses of the Legislature of a State and provision shall be made by the Legislature of the State 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.

Vacation of seats.

(2) No person shall be a member of the Legislatures of two or more States specified in the First Schedule and if a person is chosen a member of the Legislatures of two or more such States, then, at the expiration of such period as may be specified in rules¹ made by the President, that person's seat in the Legislatures of all such States shall become vacant, unless he has previously resigned his seat in the Legislatures of all but one of the States.

(3) If a member of a House of the Legislature of a State—

¹See 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.

(Part VI.—The States.—Arts. 190-191.)

(a) becomes subject to any of the disqualifications mentioned in ¹[clause (1) or clause (2) of article 191]; or

²[(b) resigns his seat by writing under his hand addressed to the speaker or the Chairman, as the case may be, and his resignation is accepted by the Speaker or the Chairman, as the case may be,]

his seat shall thereupon become vacant:

³[Provided that in the case of any resignation referred to in sub-clause (b), if from information received or otherwise and after making such inquiry as he thinks fit, the Speaker or the Chairman, as the case may be, is satisfied that such resignation is not voluntary or genuine, he shall not accept such resignation.]

(4) If for a period of sixty days a member of a House of the Legislature of a State is without permission of the House absent from all meetings thereof, the House may declare his seat vacant:

Provided that in computing the said period of sixty days no account shall be taken of any period during which the House is prorogued or is adjourned for more than four consecutive days.

Disqualifications
for membership.

191. (1) A person shall be disqualified for being chosen as, and for being, a member of the Legislative Assembly or Legislative Council of a State—

(a) if he holds any office of profit under the Government of India or the Government of any State specified in the First Schedule, other than an office declared by the Legislature of the State by law not to disqualify its holder;

(b) if he is of unsound mind and stands so declared by a competent court;

¹Subs. by the Constitution (Fifty-second Amendment) Act, 1985, s. 4, for “clause (1) of article 191” (w.e.f. 1-3-1985).

²Subs. by the Constitution (Thirty-third Amendment) Act, 1974, s. 3, for sub-clause (b).

³Ins. by s. 3, *ibid.*

(Part VI.—The States.—Arts. 191—193.)

(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 acknowledgment of allegiance or adherence to a foreign State;

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

¹[*Explanation.*—For the purposes of this clause], a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State specified in the First Schedule by reason only that he is a Minister either for the Union or for such State.

²[(2) A person shall be disqualified for being a member of the Legislative Assembly or Legislative Council of a State if he is so disqualified under the Tenth Schedule.]

³[192. (1) If any question arises as to whether a member of a House of the Legislature of a State has become subject to any of the disqualifications mentioned in clause (1) of article 191, the question shall be referred for the decision of the Governor and his decision shall be final.

Decision on questions as to disqualifications of members.

(2) Before giving any decision on any such question, the Governor shall obtain the opinion of the Election Commission and shall act according to such opinion.]

193. If a person sits or votes as a member of the Legislative Assembly or the Legislative Council of a State before he has complied with the requirements of article 188, 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 or the Legislature of the State, he

Penalty for sitting and voting before making oath or affirmation under article 188 or when not qualified or when disqualified.

¹Subs. by the Constitution (Fifty-second Amendment) Act, 1985, s. 5, for “(2) For the purposes of this article” (w.e.f. 1-3-1985).

²Ins. by s. 5, *ibid.* (w.e.f. 1-3-1985).

³Art. 192 has been successively subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 33 (w.e.f. 3-1-1977) and the Constitution (Forty-fourth Amendment) Act, 1978, s. 25 to read as above (w.e.f. 20-6-1979).

(Part VI.—The States.—Arts. 193—195.)

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 State.

Powers, Privileges and Immunities of State Legislatures and their Members

Powers, privileges, etc., of the Houses of Legislatures and of the members and committees thereof.

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

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

(3) In other respects, the powers, privileges and immunities of a House of the Legislature of a State, and of the members and the committees of a House of such Legislature, shall be such as may from time to time be defined by the Legislature by law, and, until so defined, ¹[shall be those of that House and of its members and committees immediately before the coming into force of section 26 of the Constitution (Forty-fourth Amendment) Act, 1978].

(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 the Legislature of a State or any committee thereof as they apply in relation to members of that Legislature.

Salaries and allowances of members.

195. Members of the Legislative Assembly and the Legislative Council of a State shall be entitled to receive such salaries and allowances as may from time to time be determined, by the Legislature of the State by law and,

¹Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 26, for certain words (w.e.f. 20-6-1979).

(Part VI.—The States.—Arts. 195—197.)

until provision in that respect is so made, salaries and 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 Legislative Assembly of the corresponding Province.

Legislative Procedure

196. (1) Subject to the provisions of articles 198 and 207 with respect to Money Bills and other financial Bills, a Bill may originate in either House of the Legislature of a State which has a Legislative Council.

Provisions as to introduction and passing of Bills.

(2) Subject to the provisions of articles 197 and 198, a Bill shall not be deemed to have been passed by the Houses of the Legislature of a State having a Legislative Council 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 the Legislature of a State shall not lapse by reason of the prorogation of the House or Houses thereof.

(4) A Bill pending in the Legislative Council of a State which has not been passed by the Legislative Assembly shall not lapse on a dissolution of the Assembly.

(5) A Bill which is pending in the Legislative Assembly of a State, or which having been passed by the Legislative Assembly is pending in the Legislative Council, shall lapse on a dissolution of the Assembly.

197. (1) If after a Bill has been passed by the Legislative Assembly of a State having a Legislative Council and transmitted to the Legislative Council—

Restriction on powers of Legislative Council as to Bills other than Money Bills.

(a) the Bill is rejected by the Council; or

(b) more than three months elapse from the date on which the Bill is laid before the Council without the Bill being passed by it; or

(c) the Bill is passed by the Council with amendments to which the Legislative Assembly does not agree;

(Part VI.—*The States*.—Arts. 197—198.)

the Legislative Assembly may, subject to the rules regulating its procedure, pass the Bill again in the same or in any subsequent session with or without such amendments, if any, as have been made, suggested or agreed to by the Legislative Council and then transmit the Bill as so passed to the Legislative Council.

(2) If after a Bill has been so passed for the second time by the Legislative Assembly and transmitted to the Legislative Council—

(a) the Bill is rejected by the Council; or

(b) more than one month elapses from the date on which the Bill is laid before the Council without the Bill being passed by it; or

(c) the Bill is passed by the Council with amendments to which the Legislative Assembly does not agree;

the Bill shall be deemed to have been passed by the Houses of the Legislature of the State in the form in which it was passed by the Legislative Assembly for the second time with such amendments, if any, as have been made or suggested by the Legislative Council and agreed to by the Legislative Assembly.

(3) Nothing in this article shall apply to a Money Bill.

Special procedure
in respect of
Money Bills.

198. (1) A Money Bill shall not be introduced in a Legislative Council.

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

(3) If the Legislative Assembly accepts any of the recommendations of the Legislative Council, the Money

(Part VI.—*The States*.—Arts. 198-199.)

Bill shall be deemed to have been passed by both Houses with the amendments recommended by the Legislative Council and accepted by the Legislative Assembly.

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

(5) If a Money Bill passed by the Legislative Assembly and transmitted to the Legislative Council for its recommendations is not returned to the Legislative Assembly 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 Legislative Assembly.

199. (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:—

Definition of
"Money Bills".

(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 State, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the State;

(c) the custody of the Consolidated Fund or the Contingency Fund of the State, 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 the State;

(e) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of the State, or the increasing of the amount of any such expenditure;

(Part VI.—*The States*.—Arts. 199-200.)

(f) the receipt of money on account of the Consolidated Fund of the State or the public account of the State or the custody or issue of such money; 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 introduced in the Legislature of a State which has a Legislative Council is a Money Bill or not, the decision of the Speaker of the Legislative Assembly of such State thereon shall be final.

(4) There shall be endorsed on every Money Bill when it is transmitted to the Legislative Council under article 198, and when it is presented to the Governor for assent under article 200, the certificate of the Speaker of the Legislative Assembly signed by him that it is a Money Bill.

Assent to Bills.

200. When a Bill has been passed by the Legislative Assembly of a State or, in the case of a State having a Legislative Council, has been passed by both Houses of the Legislature of the State, it shall be presented to the Governor and the Governor shall declare either that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the President:

Provided that the Governor may, as soon as possible after the presentation to him of the Bill for assent, return the Bill if it is not a Money Bill together with a message requesting that the House or Houses 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,

(Part VI.—The States.—Arts. 200—202.)

when a Bill is so returned, the House or Houses shall reconsider the Bill accordingly, and if the Bill is passed again by the House or Houses with or without amendment and presented to the Governor for assent, the Governor shall not withhold assent therefrom:

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

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:

Bills reserved for consideration.

Provided that, where the Bill is not a Money Bill, the President may direct the Governor to return the Bill to the House or, as the case may be, the Houses of the Legislature of the State together with such a message as is mentioned in the first proviso to article 200 and, when a Bill is so returned, the House or Houses shall reconsider it accordingly within a period of six months from the date of receipt of such message and, if it is again passed by the House or Houses with or without amendment, it shall be presented again to the President for his consideration.

Procedure in Financial Matters

202. (1) The Governor shall in respect of every financial year cause to be laid before the House or Houses of the Legislature of the State a statement of the estimated receipts and expenditure of the State for that year, in this Part referred to as the "annual financial statement".

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 the State; and

(Part VI.—The States.—Arts. 202-203.)

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

and shall distinguish expenditure on revenue account from other expenditure.

(3) The following expenditure shall be expenditure charged on the Consolidated Fund of each State—

(a) the emoluments and allowances of the Governor and other expenditure relating to his office;

(b) the salaries and allowances of the Speaker and the Deputy Speaker of the Legislative Assembly and, in the case of a State having a Legislative Council, also of the Chairman and the Deputy Chairman of the Legislative Council;

(c) debt charges for which the State is liable including interest, sinking fund charges and redemption charges, and other expenditure relating to the raising of loans and the service and redemption of debt;

(d) expenditure in respect of the salaries and allowances of Judges of any High Court;

(e) any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal;

(f) any other expenditure declared by this Constitution, or by the Legislature of the State by law, to be so charged.

Procedure in
Legislature with
respect to
estimates.

203. (1) So much of the estimates as relates to expenditure charged upon the Consolidated Fund of a State shall not be submitted to the vote of the Legislative Assembly, but nothing in this clause shall be construed as preventing the discussion in the Legislature of any of those estimates.

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

(Part VI.—*The States*.—Arts. 203—205.)

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

204. (1) As soon as may be after the grants under article 203 have been made by the Assembly, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of the State of all moneys required to meet—

Appropriation Bills.

(a) the grants so made by the Assembly; and

(b) the expenditure charged on the Consolidated Fund of the State but not exceeding in any case the amount shown in the statement previously laid before the House or Houses.

(2) No amendment shall be proposed to any such Bill in the House or either House of the Legislature of the State which will have the effect of varying the amount or altering the destination of any grant so made or of varying the amount of any expenditure charged on the Consolidated Fund of the State, and the decision of the person presiding as to whether an amendment is inadmissible under this clause shall be final.

(3) Subject to the provisions of articles 205 and 206, no money shall be withdrawn from the Consolidated Fund of the State except under appropriation made by law passed in accordance with the provisions of this article.

205. (1) The Governor shall—

Supplementary,
additional or
excess grants.

(a) if the amount authorised by any law made in accordance with the provisions of article 204 to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year, or

(Part VI.—The States.—Arts. 205-206.)

(b) if any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year,

cause to be laid before the House or the Houses of the Legislature of the State another statement showing the estimated amount of that expenditure or cause to be presented to the Legislative Assembly of the State a demand for such excess, as the case may be.

(2) The provisions of articles 202, 203 and 204 shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorising the appropriation of moneys out of the Consolidated Fund of the State to meet such expenditure or the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of the State to meet such expenditure or grant.

Votes on account,
votes of credit and
exceptional grants.

206. (1) Notwithstanding anything in the foregoing provisions of this Chapter, the Legislative Assembly of a State shall have power—

(a) to make any grant in advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in article 203 for the voting of such grant and the passing of the law in accordance with the provisions of article 204 in relation to that expenditure;

(b) to make a grant for meeting an unexpected demand upon the resources of the State when on account of the magnitude or the indefinite character of the service the demand cannot be stated with the details ordinarily given in an annual financial statement;

(c) to make an exceptional grant which forms no part of the current service of any financial year;

and the Legislature of the State shall have power to authorise by law the withdrawal of moneys from the

(Part VI.—The States.—Arts. 206—208.)

Consolidated Fund of the State for the purposes for which the said grants are made.

(2) The provisions of articles 203 and 204 shall have effect in relation to the making of any grant under clause (1) and to any law to be made under that clause as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of the State to meet such expenditure.

207. (1) A Bill or amendment making provision for any of the matters specified in sub-clauses (a) to (f) of clause (1) of article 199 shall not be introduced or moved except on the recommendation of the Governor, and a Bill making such provision shall not be introduced in a Legislative Council:

Special provisions
as to financial Bills.

Provided that no recommendation shall be required under this clause for the moving of an amendment making provision for the reduction or abolition of any tax.

(2) A Bill or amendment shall not be deemed to make provision for any of the matters aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, 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) A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of a State shall not be passed by a House of the Legislature of the State unless the Governor has recommended to that House the consideration of the Bill.

Procedure Generally

208. (1) A House of the Legislature of a State may make rules for regulating, subject to the provisions of this Constitution, its procedure and the conduct of its business.

Rules of procedure.

(Part VI.—The States.—Arts. 208—210.)

(2) Until rules are made under clause (1), the rules of procedure and standing orders in force immediately before the commencement of this Constitution with respect to the Legislature for the corresponding Province shall have effect in relation to the Legislature of the State subject to such modifications and adaptations as may be made therein by the Speaker of the Legislative Assembly, or the Chairman of the Legislative Council, as the case may be.

(3) In a State having a Legislative Council the Governor, after consultation with the Speaker of the Legislative Assembly and the Chairman of the Legislative Council, may make rules as to the procedure with respect to communications between the two Houses.

Regulation by law of procedure in the Legislature of the State in relation to financial business.

209. The Legislature of a State may, for the purpose of the timely completion of financial business, regulate by law the procedure of, and the conduct of business in, the House or Houses of the Legislature of the State in relation to any financial matter or to any Bill for the appropriation of moneys out of the Consolidated Fund of the State, and, if and so far as any provision of any law so made is inconsistent with any rule made by the House or either House of the Legislature of the State under clause (1) of article 208 or with any rule or standing order having effect in relation to the Legislature of the State under clause (2) of that article, such provision shall prevail.

Language to be used in the Legislature.

210. (1) Notwithstanding anything in Part XVII, but subject to the provisions of article 348, business in the Legislature of a State shall be transacted in the official language or languages of the State or in Hindi or in English:

Provided that the Speaker of the Legislative Assembly or Chairman of the Legislative Council, or person acting as such, as the case may be, may permit any member who cannot adequately express himself in any of the languages aforesaid to address the House in his mother-tongue.

(2) Unless the Legislature of the State by law otherwise provides, this article shall, after the expiration

(Part VI.—The States.—Arts. 210—213.)

of a period of fifteen years from the commencement of this Constitution, have effect as if the words “or in English” were omitted therefrom:

¹[Provided that in relation to the ²[Legislatures of the States of Himachal Pradesh, Manipur, Meghalaya and Tripura] this clause shall have effect as if for the words “fifteen years” occurring therein, the words “twenty-five years” were substituted:]

³[Provided further that in relation to the ⁴[Legislatures of the States of ⁵[Arunachal Pradesh, Goa and Mizoram]], this clause shall have effect as if for the words “fifteen years” occurring therein, the words “forty years” were substituted.]

211. No discussion shall take place in the Legislature of a State with respect to the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties.

Restriction on discussion in the Legislature.

212. (1) The validity of any proceedings in the Legislature of a State shall not be called in question on the ground of any alleged irregularity of procedure.

Courts not to inquire into proceedings of the Legislature.

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

CHAPTER IV.—LEGISLATIVE 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

Power of Governor to promulgate Ordinances during recess of Legislature.

¹Ins. by the State of Himachal Pradesh Act, 1970 (53 of 1970), s. 46 (w.e.f. 25-1-1971).

²Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71, for “Legislature of the State of Himachal Pradesh” (w.e.f. 21-1-1972).

³Ins. by the State of Mizoram Act, 1986 (34 of 1986), s. 39 (w.e.f. 20-2-1987).

⁴Subs. by the State of Arunachal Pradesh Act, 1986 (69 of 1986), s. 42, for “Legislature of the State of Mizoram” (w.e.f. 20-2-1987).

⁵Subs. by the Goa, Daman and Diu Reorganisation Act, 1987 (18 of 1987), s. 63, for “Arunachal Pradesh and Mizoram” (w.e.f. 30-5-1987).

(Part VI.—The States.—Art. 213.)

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:

Provided that the Governor shall not, without instructions from the President, promulgate any such Ordinance if—

(a) a Bill containing the same provisions would under this Constitution have required the previous sanction of the President for the introduction thereof into the Legislature; or

(b) he would have deemed it necessary to reserve a Bill containing the same provisions for the consideration of the President; or

(c) an Act of the Legislature of the State containing the same provisions would under this Constitution have been invalid unless, having been reserved for the consideration of the President, it had received the assent of the President.

(2) An Ordinance promulgated under this article shall have the same force and effect as an Act of the Legislature of the State assented to by the Governor, but every such Ordinance—

(a) shall be laid before the Legislative Assembly of the State, or where there is a Legislative Council in the State, before both the Houses, and shall cease to operate at the expiration of six weeks from the reassembly of the Legislature, or if before the expiration of that period a resolution disapproving it is passed by the Legislative Assembly and agreed to by the Legislative Council, if any, upon the passing of the resolution or, as the case may be, on the resolution being agreed to by the Council; and

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

Explanation.—Where the Houses of the Legislature

(Part VI.—The States.—Art. 217.)

Appointment and conditions of the office of a Judge of a High Court.

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 ¹[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 ²[sixty-two years]]:

Provided that—

(a) a Judge may, by writing under his hand addressed to the President, resign his office;

(b) a Judge may be removed from his office by the President in the manner provided in clause (4) of article 124 for the removal of a Judge of the Supreme Court;

(c) the office of a Judge shall be vacated by his being appointed by the President to be a Judge of the Supreme Court or by his being transferred by the President to any other High Court within the territory of India.

(2) A person shall not be qualified for appointment as a Judge of a High Court unless he is a citizen of India and—

(a) has for at least ten years held a judicial office in the territory of India; or

(b) has for at least ten years been an advocate of a High Court ^{3***} or of two or more such Courts in succession; ^{4***}

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¹Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 12, for "shall hold office until he attains the age of sixty years".

²Subs. by the Constitution (Fifteenth Amendment) Act, 1963, s. 4, for "sixty years".

³The words "in any State specified in the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

⁴The word "or" and sub-clause (c) were ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 36 (w.e.f. 3-1-1977) and omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 28 (w.e.f. 20-6-1979).

(Part VI.—The States.—Arts. 217-218.)

Explanation.—For the purposes of this clause—

¹[(a) in computing the period during which a person has held judicial office in the territory of India, there shall be included any period, after he has held any judicial office, during which the person has been an advocate of a High Court or has held the office of a member of a tribunal or any post, under the Union or a State, requiring special knowledge of law;]

²[(aa)] in computing the period during which a person has been an advocate of a High Court, there shall be included any period during which the person ³[has held judicial office or the office of a member of a tribunal or any post, under the Union or a State, requiring special knowledge of law] after he became an advocate;

(b) in computing the period during which a person has held judicial office in the territory of India or been an advocate of a High Court, there shall be included any period before the commencement of this Constitution during which he has held judicial office in any area which was comprised before the fifteenth day of August, 1947, within India as defined by the Government of India Act, 1935, or has been an advocate of any High Court in any such area, as the case may be.

⁴[(3) If any question arises as to the age of a Judge of a High Court, the question shall be decided by the President after consultation with the Chief Justice of India and the decision of the President shall be final.]

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.

Application of certain provisions relating to Supreme Court to High Courts.

¹Ins. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 28 (w.e.f. 20-6-1979).

²Cl. (a) re-lettered as cl. (aa) by s. 28, *ibid.* (w.e.f. 20-6-1979).

³Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 36, for "has held judicial office" (w.e.f. 3-1-1977).

⁴Ins. by the Constitution (Fifteenth Amendment) Act, 1963, s. 4 (with retrospective effect).

(Part VI.—*The States*.—Arts. 219—222.)

Oath or affirmation by Judges of High Courts.

219. Every person appointed to be a Judge of a High Court ^{1***} shall, before he enters upon his office, make and subscribe before the Governor of the State, 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.

Restriction on practice after being a permanent Judge.

²[**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.

Explanation.—In this article, the expression “High Court” does not include a High Court for a State specified in Part B of the First Schedule as it existed before the commencement³ of the Constitution (Seventh Amendment) Act, 1956.]

Salaries, etc., of Judges.

221. ⁴[(1) There shall be paid to the Judges of each High Court such salaries as may be determined by Parliament by law and, until provision in that behalf is so made, such salaries as are specified in the Second Schedule.]

(2) Every Judge shall be entitled to such allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by or under law made by Parliament and, until so determined, to such allowances and rights as are specified in the Second Schedule:

Provided that neither the allowances of a Judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment.

Transfer of a Judge from one High Court to another.

222. (1) The President may, after consultation with the Chief Justice of India, transfer a Judge from one High Court to any other High Court ^{5***}.

¹The words “in a State” omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

²Subs. by s. 13, *ibid.*, for art. 220.

³1st November, 1956.

⁴Subs. by the Constitution (Fifty-fourth Amendment) Act, 1986, s. 3, for cl. (1) (w.e.f. 1-4-1986).

⁵The words “within the territory of India” omitted by the Constitution (Seventh Amendment) Act, 1956, s. 14.

(Part VI.—The States.—Arts. 222—224A.)

¹[(2) When a Judge has been or is so transferred, he shall, during the period he serves, after the commencement of the Constitution (Fifteenth Amendment) Act, 1963, as a Judge of the other High Court, be entitled to receive in addition to his salary such compensatory allowance as may be determined by Parliament by law and, until so determined, such compensatory allowance as the President may by order fix.]

223. When the office of Chief Justice of a High Court is vacant or when any such Chief Justice is, by reason of absence or otherwise, unable to perform the duties of his office, the duties of the office shall be performed by such one of the other Judges of the Court as the President may appoint for the purpose.

Appointment of acting Chief Justice.

²[**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.

Appointment of additional and acting Judges.

(2) When any Judge of a High Court other than the Chief Justice is by reason of absence or for any other reason unable to perform the duties of his office or is appointed to act temporarily as Chief Justice, the President may appoint a duly qualified person to act as a Judge of that Court until the permanent Judge has resumed his duties.

(3) No person appointed as an additional or acting Judge of a High Court shall hold office after attaining the age of ³[sixty-two years].]

⁴[**224A.** Notwithstanding anything in this Chapter, the Chief Justice of a High Court for any State may at any time, with the previous consent of the President,

Appointment of retired Judges at sittings of High Courts.

¹Ins. by the Constitution (Fifteenth Amendment) Act, 1963, s. 5. Original cl. (2) was omitted by the Constitution (Seventh Amendment) Act, 1956, s. 14.

²Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 15, for art. 224.

³Subs. by the Constitution (Fifteenth Amendment) Act, 1963, s. 6, for "sixty years".

⁴Ins. by s. 7, *ibid.*

(Part VI.—The States.—Arts. 224A—226.)

request any person who has held the office of a Judge of that Court or of any other High Court to sit and act as a Judge of the High Court for that State, and every such person so requested shall, while so sitting and acting, be entitled to such allowances as the President may by order determine and have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a Judge of that High Court:

Provided that nothing in this article shall be deemed to require any such person as aforesaid to sit and act as a Judge of that High Court unless he consents so to do.]

Jurisdiction of existing High Courts.

225. Subject to the provisions of this Constitution and to the provisions of any law of the appropriate Legislature made by virtue of powers conferred on that Legislature by this Constitution, the jurisdiction of, and the law administered in, any existing High Court, and the respective powers of the Judges thereof in relation to the administration of justice in the Court, including any power to make rules of Court and to regulate the sittings of the Court and of members thereof sitting alone or in Division Courts, shall be the same as immediately before the commencement of this Constitution:

¹[Provided that any restriction to which the exercise of original jurisdiction by any of the High Courts with respect to any matter concerning the revenue or concerning any act ordered or done in the collection thereof was subject immediately before the commencement of this Constitution shall no longer apply to the exercise of such jurisdiction.]

Power of High Courts to issue certain writs.

²[**226.** (1) Notwithstanding anything in article 32 ^{3***} 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,

¹Ins. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 29, (w.e.f. 20-6-1979). Original proviso was omitted by the Constitution (Forty-second Amendment) Act, 1976, s. 37 (w.e.f. 1-2-1977).

²Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 38, for art. 226 (w.e.f. 1-2-1977).

³The words, figures and letters "but subject to the provisions of article 131A and article 226A" omitted by the Constitution (Forty-third Amendment) Act, 1977, s. 7 (w.e.f. 13-4-1978).

(Part VI.—*The States.*—Arts. 226.)

orders or writs, including ¹[writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari*, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.]

(2) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories.

²[(3) Where any party against whom an interim order, whether by way of injunction or stay or in any other manner, is made on, or in any proceedings relating to, a petition under clause (1), without—

(a) furnishing to such party copies of such petition and all documents in support of the plea for such interim order; and

(b) giving such party an opportunity of being heard,

makes an application to the High Court for the vacation of such order and furnishes a copy of such application to the party in whose favour such order has been made or the counsel of such party, the High Court shall dispose of the application within a period of two weeks from the date on which it is received or from the date on which the copy of such application is so furnished, whichever is later, or where the High Court is closed on the last day of that period, before the expiry of the next day afterwards on which the High Court is open; and if the application is not so disposed of, the interim order shall, on the expiry of that period, or, as the case may be, the expiry of the said next day, stand vacated.]

¹Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 30, for the portion beginning with the words "writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari*, or any of them" and ending with the words "such illegality has resulted in substantial failure of justice" (w.e.f. 1-8-1979).

²Subs. by s. 30, *ibid.*, for cls. (3), (4), (5) and (6) (w.e.f. 1-8-1979).

(Part VI.—The States.—Arts. 226-227.)

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

²**226A.** [*Constitutional validity of Central laws not to be considered in proceedings under article 226.*] *Rep. by the Constitution (Forty-third Amendment) Act, 1977, s. 8 (w.e.f. 13-4-1978).*

Power of
superintendence
over all courts by
the High Court.

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

(2) Without prejudice to the generality of the foregoing provision, the High Court may—

(a) call for returns from such courts;

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

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

(3) The High Court may also settle tables of fees to be allowed to the sheriff and all clerks and officers of such courts and to attorneys, advocates and pleaders practising therein:

Provided that any rules made, forms prescribed or tables settled under clause (2) or clause (3) shall not be inconsistent with the provision of any law for the time being in force, and shall require the previous approval of the Governor.

(4) Nothing in this article shall be deemed to confer on a High Court powers of superintendence over any court or tribunal constituted by or under any law relating to the Armed Forces.

¹Cl. (7) renumbered as cl. (4) by the Constitution (Forty-fourth Amendment) Act, 1978, s. 30 (w.e.f. 1-8-1979).

²Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 39 (w.e.f. 1-2-1977).

³Cl. (1) has been successively subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 40 (w.e.f. 1-2-1977) and the Constitution (Forty-fourth Amendment) Act, 1978, s. 31, to read as above (w.e.f. 20-6-1979).

(Part VI.—The States.—Arts. 227—229.)

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228. If the High Court is satisfied that a case pending in a court subordinate to it involves a substantial question of law as to the interpretation of this Constitution the determination of which is necessary for the disposal of the case, ²[it shall withdraw the case and ^{3***} may—]

Transfer of certain cases to High Court.

(a) either dispose of the case itself, or

(b) determine the said question of law and return the case to the court from which the case has been so withdrawn together with a copy of its judgment on such question, and the said court shall on receipt thereof proceed to dispose of the case in conformity with such judgment.

⁴**228A.** [*Special provisions as to disposal of questions relating to constitutional validity of State laws.*] Rep. by the Constitution (Forty-third Amendment) Act, 1977, s. 10 (w.e.f. 13-4-1978).

229. (1) Appointments of officers and servants of a High Court shall be made by the Chief Justice of the Court or such other Judge or officer of the Court as he may direct:

Officers and servants and the expenses of High Courts.

Provided that the Governor of the State ^{5***} may by rule require that in such cases as may be specified in the rule no person not already attached to the Court shall be appointed to any office connected with the Court save after consultation with the State Public Service Commission.

(2) Subject to the provisions of any law made by the Legislature of the State, the conditions of service of

¹Cl. (5) was ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 40 (w.e.f. 1-2-1977) and omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 31 (w.e.f. 20-6-1979).

²Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 41, for "it shall withdraw the case and may —" (w.e.f. 1-2-1977).

³The words, figures and letters "subject to the provisions of article 131A," omitted by the Constitution (Forty-third Amendment) Act, 1977, s. 9 (w.e.f. 13-4-1978).

⁴Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 42 (w.e.f. 1-2-1977).

⁵The words "in which the High Court has its principal seat" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

(Part VI.—The States.—Arts. 229—231.)

officers and servants of a High Court shall be such as may be prescribed by rules made by the Chief Justice of the Court or by some other Judge or officer of the Court authorised by the Chief Justice to make rules for the purpose:

Provided that the rules made under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the Governor of the State ^{1***}.

(3) The administrative expenses of a High Court, including all salaries, allowances and pensions payable to or in respect of the officers and servants of the Court, shall be charged upon the Consolidated Fund of the State, and any fees or other moneys taken by the Court shall form part of that Fund.

Extension of jurisdiction of High Courts to Union territories.

²[**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.

(2) Where the High Court of a State exercises jurisdiction in relation to a Union territory,—

(a) nothing in this Constitution shall be construed as empowering the Legislature of the State to increase, restrict or abolish that jurisdiction; and

(b) the reference in article 227 to the Governor shall, in relation to any rules, forms or tables for subordinate courts in that territory, be construed as a reference to the President.

Establishment of a common High Court for two or more States.

231. (1) Notwithstanding anything contained in the preceding provisions of this Chapter, Parliament may by law establish a common High Court for two or more States or for two or more States and a Union territory.

(2) In relation to any such High Court,—

(a) the reference in article 217 to the Governor of the State shall be construed as a reference to the Governors of all the States in relation to which the High Court exercises jurisdiction;

¹The words “in which the High Court has its principal seat” omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

²Subs. by s. 16, *ibid.*, for arts. 230, 231 and 232.

(Part VI.—*The States*.—Arts. 231—233A.)

(b) the reference in article 227 to the Governor shall, in relation to any rules, forms or tables for subordinate courts, be construed as a reference to the Governor of the State in which the subordinate courts are situate; and

(c) the references in articles 219 and 229 to the State shall be construed as a reference to the State in which the High Court has its principal seat:

Provided that if such principal seat is in a Union territory, the references in articles 219 and 229 to the Governor, Public Service Commission, Legislature and Consolidated Fund of the State shall be construed respectively as references to the President, Union Public Service Commission, Parliament and Consolidated Fund of India.]

CHAPTER VI.—SUBORDINATE COURTS

233. (1) Appointments of persons to be, and the posting and promotion of, district judges in any State shall be made by the Governor of the State in consultation with the High Court exercising jurisdiction in relation to such State.

Appointment of district judges.

(2) A person not already in the service of the Union or of the State shall only be eligible to be appointed a district judge if he has been for not less than seven years an advocate or a pleader and is recommended by the High Court for appointment.

¹[**233A.** Notwithstanding any judgment, decree or order of any court,—

(a) (i) no appointment of any person already in the judicial service of a State or of any person who has been for not less than seven years an advocate or a pleader, to be a district judge in that State, and

(ii) no posting, promotion or transfer of any such person as a district judge,

Validation of appointments of, and judgments, etc., delivered by, certain district judges.

made at any time before the commencement of the Constitution (Twentieth Amendment) Act, 1966,

¹Ins. by the Constitution (Twentieth Amendment) Act, 1966, s. 2.

(Part VI.—The States.—Arts. 233A—236.)

otherwise than in accordance with the provisions of article 233 or article 235 shall be deemed to be illegal or void or ever to have become illegal or void by reason only of the fact that such appointment, posting, promotion or transfer was not made in accordance with the said provisions;]

(b) no jurisdiction exercised, no judgment, decree, sentence or order passed or made, and no other act or proceeding done or taken, before the commencement of the Constitution (Twentieth Amendment) Act, 1966 by, or before, any person appointed, posted, promoted or transferred as a district judge in any State otherwise than in accordance with the provisions of article 233 or article 235 shall be deemed to be illegal or invalid or ever to have become illegal or invalid by reason only of the fact that such appointment, posting, promotion or transfer was not made in accordance with the said provisions.]

Recruitment of persons other than district judges to the judicial service.

234. Appointments of persons other than district judges to the judicial service of a State shall be made by the Governor of the State in accordance with rules made by him in that behalf after consultation with the State Public Service Commission and with the High Court exercising jurisdiction in relation to such State.

Control over subordinate courts.

235. The control over district courts and courts subordinate thereto including the posting and promotion of, and the grant of leave to, persons belonging to the judicial service of a State and holding any post inferior to the post of district judge shall be vested in the High Court, but nothing in this article shall be construed as taking away from any such person any right of appeal which he may have under the law regulating the conditions of his service or as authorising the High Court to deal with him otherwise than in accordance with the conditions of his service prescribed under such law.

Interpretation.

236. In this Chapter—

(a) the expression "district judge" includes judge of a city civil court, additional district judge, joint district judge, assistant district judge, chief judge of

(Part VI.—*The States*.—Arts. 236-237.)

a small cause court, chief presidency magistrate, additional chief presidency magistrate, sessions judge, additional sessions judge and assistant sessions Judge;

(b) the expression “judicial service” means a service consisting exclusively of persons intended to fill the post of district judge and other civil judicial posts inferior to the post of district judge.

237. The Governor may by public notification direct that the foregoing provisions of this Chapter and any rules made thereunder shall with effect from such date as may be fixed by him in that behalf apply in relation to any class or classes of magistrates in the State as they apply in relation to persons appointed to the judicial service of the State subject to such exceptions and modifications as may be specified in the notification.

Application of the provisions of this Chapter to certain class or classes of magistrates.

Part VII.—[The States in Part B of the First Schedule.] Rep. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

PART VIII

¹[THE UNION TERRITORIES]

²[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.

Administration of Union territories.

(2) Notwithstanding anything contained in Part VI, the President may appoint the Governor of a State as the administrator of an adjoining Union territory, and where a Governor is so appointed, he shall exercise his functions as such administrator independently of his Council of Ministers.

³[239A. (1) Parliament may by law create ⁴[for the Union territory of ⁵[Puducherry]]—

Creation of local Legislatures or Council of Ministers or both for certain Union territories.

(a) a body, whether elected or partly nominated and partly elected, to function as a Legislature for the Union territory, or

(b) a Council of Ministers,

or both with such constitution, powers and functions, in each case, as may be specified in the law.

(2) Any such law as is referred to in clause (1) shall not be deemed to be an amendment of this Constitution for the purposes of article 368 notwithstanding that it contains any provision which amends or has the effect of amending this Constitution.]

⁶[239AA. (1) As from the date of commencement of the Constitution (Sixty-ninth Amendment) Act, 1991, the Union territory of Delhi shall be called the National

Special provisions with respect to Delhi.

¹Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 17, for the heading "THE STATES IN PART C OF THE FIRST SCHEDULE".

²Subs. by s. 17, *ibid.*, for arts. 239 and 240.

³Ins. by the Constitution (Fourteenth Amendment) Act, 1962, s. 4.

⁴Subs. by the Goa, Daman and Diu Reorganisation Act, 1987 (18 of 1987), s. 63, for "for any of the Union territories of Goa, Daman and Diu and Pondicherry" (w.e.f. 30-5-1987).

⁵Subs. by the Pondicherry (Alteration of Name) Act, 2006 (44 of 2006), s. 4, for "Pondicherry" (w.e.f. 1-10-2006).

⁶Ins. by the Constitution (Sixty-ninth Amendment) Act, 1991, s. 2 (w.e.f. 1-2-1992).

(Part VI.—The Union territories.—Art. 239AA.)

Capital Territory of Delhi (hereafter in this Part referred to as the National Capital Territory) and the administrator thereof appointed under article 239 shall be designated as the Lieutenant Governor.

(2) (a) There shall be a Legislative Assembly for the National Capital Territory and the seats in such Assembly shall be filled by members chosen by direct election from territorial constituencies in the National Capital Territory.

(b) The total number of seats in the Legislative Assembly, the number of seats reserved for Scheduled Castes, the division of the National Capital Territory into territorial constituencies (including the basis for such division) and all other matters relating to the functioning of the Legislative Assembly shall be regulated by law made by Parliament.

(c) The provisions of articles 324 to 327 and 329 shall apply in relation to the National Capital Territory, the Legislative Assembly of the National Capital Territory and the members thereof as they apply, in relation to a State, the Legislative Assembly of a State and the members thereof respectively; and any reference in articles 326 and 329 to “appropriate Legislature” shall be deemed to be a reference to Parliament.

(3) (a) Subject to the provisions of this Constitution, the Legislative Assembly shall have power to make laws for the whole or any part of the National Capital Territory with respect to any of the matters enumerated in the State List or in the Concurrent List in so far as any such matter is applicable to Union territories except matters with respect to Entries 1, 2 and 18 of the State List and Entries 64, 65 and 66 of that List in so far as they relate to the said Entries 1, 2 and 18.

(b) Nothing in sub-clause (a) shall derogate from the powers of Parliament under this Constitution to make laws with respect to any matter for a Union territory or any part thereof.

(c) If any provision of a law made by the Legislative Assembly with respect to any matter is repugnant to any

(Part VI.—*The Union territories.*—Art. 239AA.)

provision of a law made by Parliament with respect to that matter, whether passed before or after the law made by the Legislative Assembly, or of an earlier law, other than a law made by the Legislative Assembly, then, in either case, the law made by Parliament, or, as the case may be, such earlier law, shall prevail and the law made by the Legislative Assembly shall, to the extent of the repugnancy, be void:

Provided that if any such law made by the Legislative Assembly has been reserved for the consideration of the President and has received his assent, such law shall prevail in the National Capital Territory:

Provided further that nothing in this sub-clause shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislative Assembly.

(4) There shall be a Council of Ministers consisting of not more than ten per cent. of the total number of members in the Legislative Assembly, with the Chief Minister at the head to aid and advise the Lieutenant Governor in the exercise of his functions in relation to matters with respect to which the Legislative Assembly has power to make laws, except in so far as he is, by or under any law, required to act in his discretion:

Provided that in the case of difference of opinion between the Lieutenant Governor and his Ministers on any matter, the Lieutenant Governor shall refer it to the President for decision and act according to the decision given thereon by the President and pending such decision it shall be competent for the Lieutenant Governor in any case where the matter, in his opinion, is so urgent that it is necessary for him to take immediate action, to take such action or to give such direction in the matter as he deems necessary.

(5) The Chief Minister shall be appointed by the President and other Ministers shall be appointed by the President on the advice of the Chief Minister and the

(Part VI.—*The Union territories.*—Arts. 239AA-239AB.)

Ministers shall hold office during the pleasure of the President.

(6) The Council of Ministers shall be collectively responsible to the Legislative Assembly.

¹[(7) (a)] Parliament may, by law, make provisions for giving effect to, or supplementing the provisions contained in the foregoing clauses and for all matters incidental or consequential thereto.

²[(b) Any such law as is referred to in sub-clause (a) shall not be deemed to be an amendment of this Constitution for the purposes of article 368 notwithstanding that it contains any provision which amends or has the effect of amending, this Constitution.]

(8) The provisions of article 239B shall, so far as may be, apply in relation to the National Capital Territory, the Lieutenant Governor and the Legislative Assembly, as they apply in relation to the Union territory of ³[Puducherry], the administrator and its Legislature, respectively; and any reference in that article to “clause (1) of article 239A” shall be deemed to be a reference to this article or article 239AB, as the case may be.

Provision in case of failure of constitutional machinery.

239AB. If the President, on receipt of a report from the Lieutenant Governor or otherwise, is satisfied—

(a) that a situation has arisen in which the administration of the National Capital Territory cannot be carried on in accordance with the provisions of article 239AA or of any law made in pursuance of that article; or

(b) that for the proper administration of the National Capital Territory it is necessary or expedient so to do,

the President may by order suspend the operation of any provision of article 239AA or of all or any of the

¹Subs. by the Constitution (Seventieth Amendment) Act, 1992, s. 3, for “(7)” (w.e.f. 21-12-1991).

²Ins. by s. 3, *ibid.* (w.e.f. 21-12-1991).

³Subs. by the Pondicherry (Alteration of Name) Act, 2006 (44 of 2006), s. 4, for “Pondicherry” (w.e.f. 1-10-2006).

(Part VI.—*The Union territories.*—Arts. 239AB-239B.)

provisions of any law made in pursuance of that article for such period and subject to such conditions as may be specified in such law and make such incidental and consequential provisions as may appear to him to be necessary or expedient for administering the National Capital Territory in accordance with the provisions of article 239 and article 239AA.

¹[239B. (1) If at any time, except when the Legislature of ²[the Union territory of ³[Puducherry]] is in session, the administrator thereof 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:

Power of administrator to promulgate Ordinances during recess of Legislature.

Provided that no such Ordinance shall be promulgated by the administrator except after obtaining instructions from the President in that behalf:

Provided further that whenever the said Legislature is dissolved, or its functioning remains suspended on account of any action taken under any such law as is referred to in clause (1) of article 239A, the administrator shall not promulgate any Ordinance during the period of such dissolution or suspension.

(2) An Ordinance promulgated under this article in pursuance of instructions from the President shall be deemed to be an Act of the Legislature of the Union territory which has been duly enacted after complying with the provisions in that behalf contained in any such law as is referred to in clause (1) of article 239A, but every such Ordinance—

(a) shall be laid before the Legislature of the Union territory and shall cease to operate at the

¹Ins. by the Constitution (Twenty-seventh Amendment) Act, 1971, s. 3 (w.e.f. 30-12-1971).

²Subs. by the Goa, Daman and Diu Reorganisation Act, 1987 (18 of 1987), s. 63, for “a Union territory referred to in clause (1) of article 239A” (w.e.f. 30-5-1987).

³Subs. by the Pondicherry (Alteration of Name) Act, 2006 (44 of 2006), s. 4, for “Pondicherry” (w.e.f. 1-10-2006).

(Part VI.—*The Union territories.*—Arts. 239B-240.)

expiration of six weeks from the reassembly of the Legislature or if, before the expiration of that period, a resolution disapproving it is passed by the Legislature, upon the passing of the resolution; and

(b) may be withdrawn at any time by the administrator after obtaining instructions from the President in that behalf.

(3) If and so far as an Ordinance under this article makes any provision which would not be valid if enacted in an Act of the Legislature of the Union territory made after complying with the provisions in that behalf contained in any such law as is referred to in clause (1) of article 239A, it shall be void.]

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Power of
President to make
regulations for
certain Union
territories.

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;

²[(b) Lakshadweep;]

³[(c) Dadra and Nagar Haveli;]

⁴[(d) Daman and Diu;]

⁵[(e) Puducherry;]

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⁸[Provided that when any body is created under article 239A to function as a Legislature for the ⁹[Union territory

¹Cl. (4) was ins. by the Constitution (Thirty-eighth Amendment) Act, 1975, s. 4 (retrospectively) and omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 32 (w.e.f. 20-6-1979).

²Subs. by the Laccadive, Minicoy and Amindivi Islands (Alteration of Name) Act, 1973 (34 of 1973), s. 4, for entry (b) (w.e.f. 1-11-1973).

³Ins. by the Constitution (Tenth Amendment) Act, 1961, s. 3.

⁴Subs. by the Goa, Daman and Diu Reorganisation Act, 1987 (18 of 1987), s. 63, for entry (d) (w.e.f. 30-5-1987). Entry (d) was ins. by the Constitution (Twelfth Amendment) Act, 1962, s. 3.

⁵Subs. by The Pondicherry (Alteration of Name) Act, 2006 (44 of 2006), s. 4, for "Pondicherry" (w.e.f. 1-10-2006).

⁶The entry (f) relating to Mizoram omitted by the State of Mizoram Act, 1986 (34 of 1986), s. 39 (w.e.f. 20-2-1987).

⁷The entry (g) relating to Arunachal Pradesh omitted by the State of Arunachal Pradesh Act, 1986 (69 of 1986), s. 42 (w.e.f. 20-2-1987).

⁸Ins. by the Constitution (Fourteenth Amendment) Act, 1962, s. 5.

⁹Subs. by the Constitution (Twenty-seventh Amendment) Act, 1971, s. 4, for "Union territory of Goa, Daman and Diu or Pondicherry" (w.e.f. 15-2-1972).

(Part VI.—*The Union territories.*—Arts. 240-241.)

of ¹[Puducherry], the President shall not make any regulation for the peace, progress and good government of that Union territory with effect from the date appointed for the first meeting of the Legislature:]

²[Provided further that whenever the body functioning as a Legislature for the Union territory of ¹[Puducherry] is dissolved, or the functioning of that body as such Legislature remains suspended on account of any action taken under any such law as is referred to in clause (1) of article 239A, the President may, during the period of such dissolution or suspension, make regulations for the peace, progress and good government of that Union territory.]

(2) Any regulation so made may repeal or amend any Act made by Parliament or ³[any other 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.]

241. (1) Parliament may by law constitute a High Court for a ⁴[Union territory] or declare any court in any ⁵[such territory] to be a High Court for all or any of the purposes of this Constitution.

High Courts for
Union territories.

(2) The provisions of Chapter V of Part VI shall apply in relation to every High Court referred to in clause (1) as they apply in relation to a High Court referred to in article 214 subject to such modifications or exceptions as Parliament may by law provide.

⁶[(3) Subject to the provisions of this Constitution and to the provisions of any law of the appropriate

¹Subs. by the Pondicherry (Alteration of Name) Act, 2006 (44 of 2006), s. 4, for "Pondicherry" (w.e.f. 1-10-2006).

²Ins. by the Constitution (Twenty-seventh Amendment) Act, 1971, s. 4 (w.e.f. 15-2-1972).

³Subs. by s. 4, *ibid.*, for "any existing law" (w.e.f. 15-2-1972).

⁴Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch., for "State specified in Part C of the First Schedule".

⁵Subs. by s. 29 and Sch., *ibid.*, for "such State".

⁶Subs. by s. 29 and Sch., *ibid.*, for cls. (3) and (4).

(Part VI.—*The Union territories.*—Arts. 241-242.)

Legislature made by virtue of powers conferred on that Legislature by or under this Constitution, every High Court exercising jurisdiction immediately before the commencement of the Constitution (Seventh Amendment) Act, 1956, in relation to any Union territory shall continue to exercise such jurisdiction in relation to that territory after such commencement.

(4) Nothing in this article derogates from the power of Parliament to extend or exclude the jurisdiction of a High Court for a State to, or from, any Union territory or part thereof.]

242. [Coorg.] *Rep. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.*

¹[PART IX THE PANCHAYATS

243. In this Part, unless the context otherwise requires,—

Definitions.

(a) “district” means a district in a State;

(b) “Gram Sabha” means a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of Panchayat at the village level;

(c) “intermediate level” means a level between the village and district levels specified by the Governor of a State by public notification to be the intermediate level for the purposes of this Part;

(d) “Panchayat” means an institution (by whatever name called) of self-government constituted under article 243B, for the rural areas;

(e) “Panchayat area” means the territorial area of a Panchayat;

(f) “population” means the population as ascertained at the last preceding census of which the relevant figures have been published;

(g) “village” means a village specified by the Governor by public notification to be a village for the purposes of this Part and includes a group of villages so specified.

243A. A Gram Sabha may exercise such powers and perform such functions at the village level as the Legislature of a State may, by law, provide.

Gram Sabha.

243B. (1) There shall be constituted in every State, Panchayats at the village, intermediate and district levels in accordance with the provisions of this Part.

Constitution of Panchayats.

¹Ins. by the Constitution (Seventy-third Amendment) Act, 1992, s. 2 (w.e.f. 24-4-1993). Original Part IX was omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

(Part IX.—The Panchayats.—Arts. 243B-243C.)

(2) Notwithstanding anything in clause (1), Panchayats at the intermediate level may not be constituted in a State having a population not exceeding twenty lakhs.

Composition of
Panchayats.

243C. (1) Subject to the provisions of this Part, the Legislature of a State may, by law, make provisions with respect to the composition of Panchayats:

Provided that the ratio between the population of the territorial area of a Panchayat at any level and the number of seats in such Panchayat to be filled by election shall, so far as practicable, be the same throughout the State.

(2) All the seats in a Panchayat shall be filled by persons chosen by direct election from territorial constituencies in the Panchayat area and, for this purpose, each Panchayat area shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the Panchayat area.

(3) The Legislature of a State may, by law, provide for the representation—

(a) of the Chairpersons of the Panchayats at the village level, in the Panchayats at the intermediate level or, in the case of a State not having Panchayats at the intermediate level, in the Panchayats at the district level;

(b) of the Chairpersons of the Panchayats at the intermediate level, in the Panchayats at the district level;

(c) of the members of the House of the People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly a Panchayat area at a level other than the village level, in such Panchayat;

(d) of the members of the Council of States and the members of the Legislative Council of the

(Part IX.—*The Panchayats*.—Arts. 243C-243D.)

State, where they are registered as electors within—

(i) a Panchayat area at the intermediate level, in Panchayat at the intermediate level;

(ii) a Panchayat area at the district level, in Panchayat at the district level.

(4) The Chairperson of a Panchayat and other members of a Panchayat whether or not chosen by direct election from territorial constituencies in the Panchayat area shall have the right to vote in the meetings of the Panchayats.

(5) The Chairperson of—

(a) a panchayat at the village level shall be elected in such manner as the Legislature of a State may, by law, provide; and

(b) a Panchayat at the intermediate level or district level shall be elected by, and from amongst, the elected members thereof.

243D. (1) Seats shall be reserved for—

(a) the Scheduled Castes; and

(b) the Scheduled Tribes,

Reservation of
seats.

in every Panchayat and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Panchayat as the population of the Scheduled Castes in that Panchayat area or of the Scheduled Tribes in that Panchayat area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Panchayat.

(2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of

(Part IX.—The Panchayats.—Arts. 243D-243E.)

seats to be filled by direct election in every Panchayat shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Panchayat.

(4) The offices of the Chairpersons in the Panchayats at the village or any other level shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide:

Provided that the number of offices of Chairpersons reserved for the Scheduled Castes and the Scheduled Tribes in the Panchayats at each level in any State shall bear, as nearly as may be, the same proportion to the total number of such offices in the Panchayats at each level as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State bears to the total population of the State:

Provided further that not less than one-third of the total number of offices of Chairpersons in the Panchayats at each level shall be reserved for women:

Provided also that the number of offices reserved under this clause shall be allotted by rotation to different Panchayats at each level.

(5) The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in article 334.

(6) Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Panchayat or offices of Chairpersons in the Panchayats at any level in favour of backward class of citizens.

Duration of
Panchayats, etc.

243E. (1) Every Panchayat, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer.

(Part IX.—*The Panchayats*.—Arts. 243E—243G.)

(2) No amendment of any law for the time being in force shall have the effect of causing dissolution of a Panchayat at any level, which is functioning immediately before such amendment, till the expiration of its duration specified in clause (1).

(3) An election to constitute a Panchayat shall be completed—

(a) before the expiry of its duration specified in clause (1);

(b) before the expiration of a period of six months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved Panchayat would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Panchayat for such period.

(4) A Panchayat constituted upon the dissolution of a Panchayat before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Panchayat would have continued under clause (1) had it not been so dissolved.

243F. (1) A person shall be disqualified for being chosen as, and for being, a member of a Panchayat—

Disqualifications
for membership.

(a) if he is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State concerned:

Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years;

(b) if he is so disqualified by or under any law made by the Legislature of the State.

(2) If any question arises as to whether a member of a Panchayat has become subject to any of the disqualifications mentioned in clause (1), the question shall be referred for the decision of such authority and in such manner as the Legislature of a State may, by law, provide.

243G. Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow the

Powers, authority
and responsibilities
of Panchayats.

(Part IX.—The Panchayats.—Arts. 243G—243-I.)

Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats at the appropriate level, subject to such conditions as may be specified therein, with respect to—

(a) the preparation of plans for economic development and social justice;

(b) the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.

Powers to impose taxes by, and Funds of, the Panchayats.

243H. The Legislature of a State may, by law,—

(a) authorise a Panchayat to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;

(b) assign to a Panchayat such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits;

(c) provide for making such grants-in-aid to the Panchayats from the Consolidated Fund of the State; and

(d) provide for constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the Panchayats and also for the withdrawal of such moneys therefrom,

as may be specified in the law.

Constitution of Finance Commission to review financial position.

243-I. (1) The Governor of a State shall, as soon as may be within one year from the commencement of the Constitution (Seventy-third Amendment) Act, 1992, and thereafter at the expiration of every fifth year, constitute a Finance Commission to review the financial position of the Panchayats and to make recommendations

(Part IX.—*The Panchayats*.—Arts. 243-I—243K.)

to the Governor as to—

(a) the principles which should govern—

(i) the distribution between the State and the Panchayats of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Panchayats at all levels of their respective shares of such proceeds;

(ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Panchayats;

(iii) the grants-in-aid to the Panchayats from the Consolidated Fund of the State;

(b) the measures needed to improve the financial position of the Panchayats;

(c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Panchayats.

(2) The Legislature of a State may, by law, provide for the composition of the Commission, the qualifications which shall be requisite for appointment as members thereof and the manner in which they shall be selected.

(3) The Commission shall determine their procedure and shall have such powers in the performance of their functions as the Legislature of the State may, by law, confer on them.

(4) The Governor shall cause every recommendation made by the Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.

243J. The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the Panchayats and the auditing of such accounts.

Audit of accounts of Panchayats.

243K. (1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayats shall be vested in

Elections to the Panchayats.

(Part IX.—The Panchayats.—Arts. 243K—243M.)

a State Election Commission consisting of a State Election Commissioner to be appointed by the Governor.

(2) Subject to the provisions of any law made by the Legislature of a State, the conditions of service and tenure of office of the State Election Commissioner shall be such as the Governor may by rule determine:

Provided that the State Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of a High Court and the conditions of service of the State Election Commissioner shall not be varied to his disadvantage after his appointment.

(3) The Governor of a State shall, when so requested by the State Election Commission, make available to the State Election Commission such staff as may be necessary for the discharge of the functions conferred on the State Election Commission by clause (1).

(4) Subject to the provisions of this Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the Panchayats.

Application to
Union territories.

243L. The provisions of this Part shall apply to the Union territories and shall, in their application to a Union territory, have effect as if the references to the Governor of a State were references to the Administrator of the Union territory appointed under article 239 and references to the Legislature or the Legislative Assembly of a State were references, in relation to a Union territory having a Legislative Assembly, to that Legislative Assembly:

Provided that the President may, by public notification, direct that the provisions of this Part shall apply to any Union territory or part thereof subject to such exceptions and modifications as he may specify in the notification.

Part not to apply
to certain areas.

243M. (1) Nothing in this Part shall apply to the Scheduled Areas referred to in clause (1), and the tribal areas referred to in clause (2), of article 244.

(Part IX.—*The Panchayats*.—Arts. 243M-243N.)

(2) Nothing in this Part shall apply to—

(a) the States of Nagaland, Meghalaya and Mizoram;

(b) the hill areas in the State of Manipur for which District Councils exist under any law for the time being in force.

(3) Nothing in this Part—

(a) relating to Panchayats at the district level shall apply to the hill areas of the District of Darjeeling in the State of West Bengal for which Darjeeling Gorkha Hill Council exists under any law for the time being in force;

(b) shall be construed to affect the functions and powers of the Darjeeling Gorkha Hill Council constituted under such law.

¹[(3A) Nothing in article 243D, relating to reservation of seats for the Scheduled Castes, shall apply to the State of Arunachal Pradesh.]

(4) Notwithstanding anything in this Constitution,—

(a) the Legislature of a State referred to in sub-clause (a) of clause (2) may, by law, extend this part to that State, except the areas, if any, referred to in clause (1), if the Legislative Assembly of that State passes a resolution to that effect 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;

(b) Parliament may, by law, extend the provisions of this Part to the Scheduled Areas and the tribal areas referred to in clause (1) subject to such exceptions and modifications as may be specified in such law, and no such law shall be deemed to be an amendment of this Constitution for the purposes of article 368.

243N. Notwithstanding anything in this Part, any provision of any law relating to Panchayats in force in a

Continuance of existing laws and Panchayats.

¹Ins. by the Constitution (Eighty-third Amendment) Act, 2000, s. 2.

(Part IX.—The Panchayats.—Arts. 243N-243-O.)

State immediately before the commencement of the Constitution (Seventy-third Amendment) Act, 1992, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier:

Provided that all the Panchayats existing immediately before such commencement shall continue till the expiration of their duration, unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having a Legislative Council, by each House of the Legislature of that State.

Bar to interference
by courts in
electoral matters.

243-O. Notwithstanding anything in this Constitution,—

(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 243K, shall not be called in question in any court;

(b) no election to any Panchayat shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.]

1[PART IXA THE MUNICIPALITIES

243P. In this Part, unless the context otherwise requires,—

Definitions.

(a) “Committee” means a Committee constituted under article 243S;

(b) “district” means a district in a State;

(c) “Metropolitan area” means an area having a population of ten lakhs or more, comprised in one or more districts and consisting of two or more Municipalities or Panchayats or other contiguous areas, specified by the Governor by public notification to be a Metropolitan area for the purposes of this Part;

(d) “Municipal area” means the territorial area of a Municipality as is notified by the Governor;

(e) “Municipality” means an institution of self-government constituted under article 243Q;

(f) “Panchayat” means a Panchayat constituted under article 243B;

(g) “population” means the population as ascertained at the last preceding census of which the relevant figures have been published.

243Q. (1) There shall be constituted in every State,—

Constitution of
Municipalities.

(a) a Nagar Panchayat (by whatever name called) for a transitional area, that is to say, an area in transition from a rural area to an urban area;

(b) a Municipal Council for a smaller urban area; and

(c) a Municipal Corporation for a larger urban area,

¹Ins. by the Constitution (Seventy-fourth Amendment) Act, 1992, s. 2 (w.e.f 1-6-1993).

(Part IXA.—The Municipalities.—Arts. 243Q-243R.)

in accordance with the provisions of this Part:

Provided that a Municipality under this clause may not be constituted in such urban area or part thereof as the Governor may, having regard to the size of the area and the municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit, by public notification, specify to be an industrial township.

(2) In this article, “a transitional area”, “a smaller urban area” or “a larger urban area” means such area as the Governor may, having regard to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as he may deem fit, specify by public notification for the purposes of this Part.

Composition of
Municipalities.

243R. (1) Save as provided in clause (2), all the seats in a Municipality shall be filled by persons chosen by direct election from the territorial constituencies in the Municipal area and for this purpose each Municipal area shall be divided into territorial constituencies to be known as wards.

(2) The Legislature of a State may, by law, provide—

(a) for the representation in a Municipality of—

(i) persons having special knowledge or experience in Municipal administration;

(ii) the members of the House of the People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly the Municipal area;

(iii) the members of the Council of States and the members of the Legislative Council of the State registered as electors within the Municipal area;

(iv) the Chairpersons of the Committees constituted under clause (5) of article 243S:

(Part IXA.—*The Municipalities.*—Arts. 243R—243T.)

Provided that the persons referred to in paragraph (i) shall not have the right to vote in the meetings of the Municipality;

(b) the manner of election of the Chairperson of a Municipality.

243S. (1) There shall be constituted Wards Committees, consisting of one or more wards, within the territorial area of a Municipality having a population of three lakhs or more.

Constitution and composition of Wards Committees, etc.

(2) The Legislature of a State may, by law, make provision with respect to—

(a) the composition and the territorial area of a Wards Committee;

(b) the manner in which the seats in a Wards Committee shall be filled.

(3) A member of a Municipality representing a ward within the territorial area of the Wards Committee shall be a member of that Committee.

(4) Where a Wards Committee consists of—

(a) one ward, the member representing that ward in the Municipality; or

(b) two or more wards, one of the members representing such wards in the Municipality elected by the members of the Wards Committee,

shall be the Chairperson of that Committee.

(5) Nothing in this article shall be deemed to prevent the Legislature of a State from making any provision for the constitution of Committees in addition to the Wards Committees.

243T. (1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Municipality and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Municipality as the population of the Scheduled Castes in the Municipal area or of the Scheduled Tribes in the Municipal area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Municipality.

Reservation of seats.

(Part IXA.—The Municipalities.—Arts. 243T-243U.)

(2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Municipality.

(4) The offices of Chairpersons in the Municipalities shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide.

(5) The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in article 334.

(6) Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Municipality or offices of Chairpersons in the Municipalities in favour of backward class of citizens.

Duration of
Municipalities,
etc.

243U. (1) Every Municipality, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer:

Provided that a Municipality shall be given a reasonable opportunity of being heard before its dissolution.

(2) No amendment of any law for the time being in force shall have the effect of causing dissolution of a Municipality at any level, which is functioning immediately before such amendment, till the expiration of its duration specified in clause (1).

(Part IXA.—*The Municipalities.*—Arts. 243U—243W.)

(3) An election to constitute a Municipality shall be completed,—

(a) before the expiry of its duration specified in clause (1);

(b) before the expiration of a period of six months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved Municipality would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Municipality for such period.

(4) A Municipality constituted upon the dissolution of a Municipality before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Municipality would have continued under clause (1) had it not been so dissolved.

243V. (1) A person shall be disqualified for being chosen as, and for being, a member of a Municipality—

Disqualifications
for membership.

(a) if he is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State concerned:

Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years;

(b) if he is so disqualified by or under any law made by the Legislature of the State.

(2) If any question arises as to whether a member of a Municipality has become subject to any of the disqualifications mentioned in clause (1), the question shall be referred for the decision of such authority and in such manner as the Legislature of a State may, by law, provide.

243W. Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow—

Powers, authority
and responsibilities
of Municipalities,
etc.

(a) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein,

(Part IXA.—*The Municipalities.*—Arts. 243W—243Y.)

with respect to—

(i) the preparation of plans for economic development and social justice;

(ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;

(b) the Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule.

Power to impose
taxes by, and Funds
of, the
Municipalities.

243X. The Legislature of a State may, by law,—

(a) authorise a Municipality to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;

(b) assign to a Municipality such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits;

(c) provide for making such grants-in-aid to the Municipalities from the Consolidated Fund of the State; and

(d) provide for constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the Municipalities and also for the withdrawal of such moneys therefrom,

as may be specified in the law.

Finance
Commission.

243Y. (1) The Finance Commission constituted under article 243-I shall also review the financial position of the Municipalities and make recommendations to the Governor as to—

(a) the principles which should govern—

(i) the distribution between the State and the Municipalities of the net proceeds of the taxes,

(Part IXA.—*The Municipalities.*—Arts. 243Y—243ZB.)

duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Municipalities at all levels of their respective shares of such proceeds;

(ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Municipalities;

(iii) the grants-in-aid to the Municipalities from the Consolidated Fund of the State;

(b) the measures needed to improve the financial position of the Municipalities;

(c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Municipalities.

(2) The Governor shall cause every recommendation made by the Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.

243Z. The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the Municipalities and the auditing of such accounts.

Audit of accounts of Municipalities.

243ZA. (1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Municipalities shall be vested in the State Election Commission referred to in article 243K.

Elections to the Municipalities.

(2) Subject to the provisions of this Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the Municipalities.

243ZB. The provisions of this Part shall apply to the Union territories and shall, in their application to a Union territory, have effect as if the references to the Governor of a State were references to the Administrator of the Union territory appointed under article 239 and references to the Legislature or the Legislative Assembly of a State were references in relation to a Union territory having a

Application to Union territories.

(Part IXA.—*The Municipalities.*—Arts. 243ZB—243ZD.)

Legislative Assembly, to that Legislative Assembly:

Provided that the President may, by public notification, direct that the provisions of this Part shall apply to any Union territory or part thereof subject to such exceptions and modifications as he may specify in the notification.

Part not to apply
to certain areas.

243ZC. (1) Nothing in this Part shall apply to the Scheduled Areas referred to in clause (1), and the tribal areas referred to in clause (2), of article 244.

(2) Nothing in this Part shall be construed to affect the functions and powers of the Darjeeling Gorkha Hill Council constituted under any law for the time being in force for the hill areas of the district of Darjeeling in the State of West Bengal.

(3) Notwithstanding anything in this Constitution, Parliament may, by law, extend the provisions of this Part to the Scheduled Areas and the tribal areas referred to in clause (1) subject to such exceptions and modifications as may be specified in such law, and no such law shall be deemed to be an amendment of this Constitution for the purposes of article 368.

Committee for
district planning.

243ZD. (1) There shall be constituted in every State at the district level a District Planning Committee to consolidate the plans prepared by the Panchayats and the Municipalities in the district and to prepare a draft development plan for the district as a whole.

(2) The Legislature of a State may, by law, make provision with respect to—

(a) the composition of the District Planning Committees;

(b) the manner in which the seats in such Committees shall be filled:

Provided that not less than four-fifths of the total number of members of such Committee shall be elected by, and from amongst, the elected members of the Panchayat at the district level and of the Municipalities in the district in proportion to the ratio

(Part IXA.—*The Municipalities.*—Arts. 243ZD-243ZE.)

between the population of the rural areas and of the urban areas in the district;

(c) the functions relating to district planning which may be assigned to such Committees;

(d) the manner in which the Chairpersons of such Committees shall be chosen.

(3) Every District Planning Committee shall, in preparing the draft development plan,—

(a) have regard to—

(i) matters of common interest between the Panchayats and the Municipalities including spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;

(ii) the extent and type of available resources whether financial or otherwise;

(b) consult such institutions and organisations as the Governor may, by order, specify.

(4) The Chairperson of every District Planning Committee shall forward the development plan, as recommended by such Committee, to the Government of the State.

243ZE. (1) There shall be constituted in every Metropolitan area a Metropolitan Planning Committee to prepare a draft development plan for the Metropolitan area as a whole.

Committee for
Metropolitan
planning.

(2) The Legislature of a State may, by law, make provision with respect to—

(a) the composition of the Metropolitan Planning Committees;

(b) the manner in which the seats in such Committees shall be filled:

Provided that not less than two-thirds of the members of such Committee shall be elected by, and from amongst, the elected members of the Municipalities and Chairpersons of the Panchayats in the Metropolitan area in proportion to the ratio

(Part IXA.—The Municipalities.—Art. 243ZE.)

between the population of the Municipalities and of the Panchayats in that area;

(c) the representation in such Committees of the Government of India and the Government of the State and of such organisations and Institutions as may be deemed necessary for carrying out the functions assigned to such Committees;

(d) the functions relating to planning and coordination for the Metropolitan area which may be assigned to such Committees;

(e) the manner in which the Chairpersons of such Committees shall be chosen.

(3) Every Metropolitan Planning Committee shall, in preparing the draft development plan,—

(a) have regard to—

(i) the plans prepared by the Municipalities and the Panchayats in the Metropolitan area;

(ii) matters of common interest between the Municipalities and the Panchayats, including co-ordinated spatial planning of the area, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;

(iii) the overall objectives and priorities set by the Government of India and the Government of the State;

(iv) the extent and nature of investments likely to be made in the Metropolitan area by agencies of the Government of India and of the Government of the State and other available resources whether financial or otherwise;

(b) consult such institutions and organisations as the Governor may, by order, specify.

(4) The Chairperson of every Metropolitan Planning Committee shall forward the development plan, as recommended by such Committee, to the Government of the State.

(Part IXA.—*The Municipalities.*—Arts. 243ZF-243ZG.)

243ZF. Notwithstanding anything in this Part, any provision of any law relating to Municipalities in force in a State immediately before the commencement of the Constitution (Seventy-fourth Amendment) Act, 1992, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier:

Continuance of existing laws and Municipalities.

Provided that all the Municipalities existing immediately before such commencement shall continue till the expiration of their duration, unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having a Legislative Council, by each House of the Legislature of that State.

243ZG. Notwithstanding anything in this Constitution,—

Bar to interference by courts in electoral matters.

(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 243ZA shall not be called in question in any court;

(b) no election to any Municipality shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.]

PART X

THE SCHEDULED AND TRIBAL AREAS

Administration of
Scheduled Areas
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 ^{1***} other than ²[the States of Assam ³[, ⁴[Meghalaya, Tripura and Mizoram]]].

(2) The provisions of the Sixth Schedule shall apply to the administration of the tribal areas in ²[the States of Assam ³[, ⁵[Meghalaya, Tripura and Mizoram]]].

Formation of an
autonomous State
comprising certain
tribal areas in
Assam and creation
of local Legislature
or Council of
Ministers or both
therefor.

⁶[**244A.** (1) Notwithstanding anything in this Constitution, Parliament may, by law, form within the State of Assam an autonomous State comprising (whether wholly or in part) all or any of the tribal areas specified in ⁷[Part I] of the table appended to paragraph 20 of the Sixth Schedule and create therefor—

(a) a body, whether elected or partly nominated and partly elected, to function as a Legislature for the autonomous State, or

(b) a Council of Ministers,

or both with such constitution, powers and functions, in each case, as may be specified in the law.

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.

²Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71, for “the State of Assam” (w.e.f. 21-1-1972).

³Subs. by the Constitution (Forty-ninth Amendment) Act, 1984, s. 2, for “and Meghalaya” (w.e.f. 1-4-1985).

⁴Subs. by the State of Mizoram Act, 1986 (34 of 1986), s. 39, for “Meghalaya and Tripura” (w.e.f. 20-2-1987).

⁵Subs. by s. 39, *ibid.*, for “Meghalaya and Tripura and the Union Territory of Mizoram” (w.e.f. 20-2-1987).

⁶Ins. by the Constitution (Twenty-second Amendment) Act, 1969, s. 2.

⁷Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71, for “Part A” (w.e.f. 21-1-1972).

(Part X.—*The Scheduled and Tribal Areas.*—Art. 244A.)

(2) Any such law as is referred to in clause (1) may, in particular,—

(a) specify the matters enumerated in the State List or the Concurrent List with respect to which the Legislature of the autonomous State shall have power to make laws for the whole or any part thereof, whether to the exclusion of the Legislature of the State of Assam or otherwise;

(b) define the matters with respect to which the executive power of the autonomous State shall extend;

(c) provide that any tax levied by the State of Assam shall be assigned to the autonomous State in so far as the proceeds thereof are attributable to the autonomous State;

(d) provide that any reference to a State in any article of this Constitution shall be construed as including a reference to the autonomous State; and

(e) make such supplemental, incidental and consequential provisions as may be deemed necessary.

(3) An amendment of any such law as aforesaid in so far as such amendment relates to any of the matters specified in sub-clause (a) or sub-clause (b) of clause (2) shall have no effect unless the amendment is passed in each House of Parliament by not less than two-thirds of the members present and voting.

(4) Any such law as is referred to in this article shall not be deemed to be an amendment of this Constitution for the purposes of article 368 notwithstanding that it contains any provision which amends or has the effect of amending this Constitution.]

PART XI

RELATIONS BETWEEN THE UNION AND THE STATES

CHAPTER I.—LEGISLATIVE RELATIONS

Distribution of Legislative Powers

Extent of laws made by Parliament and by the Legislatures of States.

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.

Subject-matter of laws made by Parliament and by the Legislatures of States.

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^{1***} 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^{1***} 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 included²[in a State] notwithstanding that such matter is a matter enumerated in the State List.

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.

²Subs. by s. 29 and Sch., *ibid.*, for " in Part A or Part B of the First Schedule".

*(Part XI.—Relations between the Union and the States.—
Arts. 247—249.)*

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.

Power of Parliament to provide for the establishment of certain additional courts.

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

Residuary powers of legislation.

(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.

Power of Parliament to legislate with respect to a matter in the State List in the national interest.

(2) A resolution passed under clause (1) shall remain in force for such period not exceeding one year as may be specified therein:

Provided that, if and so often as a resolution approving the continuance in force of any such resolution is passed in the manner provided in clause (1), such resolution shall continue in force for a further period of one year from the date on which under this clause it would otherwise have ceased to be in force.

(3) A law made by Parliament which Parliament would not but for the passing of a resolution under clause (1) 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 resolution has ceased to be in force, except as respects things done or omitted to be done before the expiration of the said period.

*(Part XI.—Relations between the Union and the States.—
Arts. 250—252.)*

Power of
Parliament to
legislate with
respect to any
matter in the State
List if a
Proclamation of
Emergency is in
operation.

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.

Inconsistency
between laws
made by
Parliament under
articles 249 and
250 and laws
made by the
Legislatures of
States.

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.

Power of
Parliament to
legislate for two
or more States by
consent and
adoption of such
legislation by any
other State.

252. (1) If it appears to the Legislatures of two or more States to be desirable that any of the matters with respect to which Parliament has no power to make laws for the States except as provided in articles 249 and 250 should be regulated in such States by Parliament by law, and if resolutions to that effect are passed by all the Houses of the Legislatures of those States, it shall be lawful for Parliament to pass an Act for regulating that matter accordingly, and any Act so passed shall apply to such States and to any other State by which it is adopted afterwards by resolution passed in that behalf by the House or, where there are two Houses, by each of the Houses of the Legislature of that State.

(Part XI.—*Relations between the Union and the States.*—
Arts. 252—254.)

(2) Any Act so passed by Parliament may be amended or repealed by an Act of Parliament passed or adopted in like manner but shall not, as respects any State to which it applies, be amended or repealed by an Act of the Legislature of that State.

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.

Legislation for giving effect to international agreements.

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.

Inconsistency between laws made by Parliament and laws made by the Legislatures of States.

(2) Where a law made by the Legislature of a State^{1***} 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 State shall, if it has been reserved for the consideration of the President and has received his assent, prevail in that State:

Provided that nothing in this clause shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislature of the State.

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.

*(Part XI.—Relations between the Union and the States.—
Arts. 255—257.)*

Requirements as to recommendations and previous sanctions to be regarded as matters of procedure only.

255. No Act of Parliament or of the Legislature of a State ^{1***}, 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

Obligation of States and the Union.

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.

Control of the Union over States in certain cases.

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 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

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.

(Part XI.—*Relations between the Union and the States.*—
Arts. 257—258.)

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.

¹257A. [*Assistance to States by deployment of armed forces or other forces of the Union.*] Rep. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 33 (w.e.f. 20-6-1979).

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.

Power of the Union to confer powers, etc., on States in certain cases.

¹Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 43 (w.e.f. 3-1-1977).

(Part XI.—*Relations between the Union and the States.*—
Arts. 258—261.)

(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.

Power of the States to entrust functions to the Union.

¹[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. 29 and Sch.*

Jurisdiction of the Union in relation to territories outside India.

260. The Government of India may by agreement with the Government of any territory not being part of the territory of India undertake any executive, legislative or judicial functions vested in the Government of such territory, but every such agreement shall be subject to, and governed by, any law relating to the exercise of foreign jurisdiction for the time being in force.

Public acts, records and judicial proceedings.

261. (1) Full faith and credit shall be given throughout the territory of India to public acts, records and judicial proceedings of the Union and of every State.

¹Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 18.

(Part XI.—*Relations between the Union and the States.*—
Arts. 261—263.)

(2) The manner in which and the conditions under which the acts, records and proceedings referred to in clause (1) shall be proved and the effect thereof determined shall be as provided by law made by Parliament.

(3) Final judgments or orders delivered or passed by civil courts in any part of the territory of India shall be capable of execution anywhere within that territory according to law.

Disputes relating to Waters

262. (1) Parliament may by law provide for the adjudication of any dispute or complaint with respect to the use, distribution or control of the waters of, or in, any inter-State river or river valley.

Adjudication of disputes relating to waters of inter-State rivers or river valleys.

(2) Notwithstanding anything in this Constitution, Parliament may by law provide that neither the Supreme Court nor any other court shall exercise jurisdiction in respect of any such dispute or complaint as is referred to in clause (1).

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—

Provisions with respect to an inter-State Council.

(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

Interpretation.

¹[264. In this Part, “Finance Commission” means a Finance Commission constituted under article 280.]

Taxes not to be imposed save by authority of law.

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

Consolidated Funds and public accounts of India and of the States.

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 India or 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.

¹Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch., for art. 264.

(Part XII.—*Finance, Property, Contracts and Suits.*—
Arts. 267-268.)

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.

Contingency Fund.

(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 ^{1***} 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.

*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—

Duties levied by the Union but collected and appropriated by the States.

(a) in the case where such duties are leviable within any ²[Union territory], by the Government of India, and

(b) in other cases, by the States within which such duties are respectively leviable.

¹The words “or Rajpramukh” omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

²Subs. by s. 29 and Sch., *ibid.*, for “State specified in Part C of the First Schedule”.

*(Part XII.—Finance, Property, Contracts and Suits.—
Arts. 268-269.)*

(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.

Service tax levied by Union and collected and appropriated by the Union and the States.

***[268A.** (1) Taxes on services shall be levied by the Government of India and such tax shall be collected and appropriated by the Government of India and the States in the manner provided in clause (2).

(2) The proceeds in any financial year of any such tax levied in accordance with the provisions of clause (1) shall be—

(a) collected by the Government of India and the States;

(b) appropriated by the Government of India and the States,

in accordance with such principles of collection and appropriation as may be formulated by Parliament by law.]

Taxes levied and collected by the Union but assigned to the States.

269. ¹[(1) Taxes on the sale or purchase of goods and taxes on the consignment of goods shall be levied and collected by the Government of India but shall be assigned and shall be deemed to have been assigned to the States on or after the 1st day of April, 1996 in the manner provided in clause (2).

Explanation.—For the purposes of this clause,—

(a) the expression “taxes on the sale or purchase of goods” shall mean taxes on sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce;

(b) the expression “taxes on the consignment of goods” shall mean taxes on the consignment of goods (whether the consignment is to the person making it or to any other person), where such consignment takes place in the course of inter-State trade or commerce.

^{*}Ins. by the Constitution (Eighty-eighth Amendment) Act, 2003, s. 2 (which is yet not in force, date to be notified later on).

¹Subs. by the Constitution (Eightieth Amendment) Act, 2000, s. 2, for cls. (1) and (2).

(Part XII.—*Finance, Property, Contracts and Suits.*—
Arts. 269-270.)

(2) The net proceeds in any financial year of any such tax, except in so far as those proceeds represent proceeds attributable to Union territories, shall not form part of the Consolidated Fund of India, but shall be assigned to the States within which that tax is leviable in that year, and shall be distributed among those States in accordance with such principles of distribution as may be formulated by Parliament by law.]

¹[(3) Parliament may by law formulate principles for determining when a ²[sale or purchase of, or consignment of, goods] takes place in the course of inter-State trade or commerce.]

³[270. (1) All taxes and duties referred to in the Union List, except the duties and taxes referred to in articles *[268 and 269], respectively, surcharge on taxes and duties referred to in article 271 and any cess levied for specific purposes under any law made by Parliament shall be levied and collected by the Government of India and shall be distributed between the Union and the States in the manner provided in clause (2).

Taxes levied and distributed between the Union and the States.

(2) Such percentage, as may be prescribed, of the net proceeds of any such tax or duty in any financial year shall not form part of the Consolidated Fund of India, but shall be assigned to the States within which that tax or duty is leviable in that year, and shall be distributed among those States in such manner and from such time as may be prescribed in the manner provided in clause (3).

(3) In this article, “prescribed” means,—

(i) until a Finance Commission has been constituted, prescribed by the President by order, and

(ii) after a Finance Commission has been constituted, prescribed by the President by order after considering the recommendations of the Finance Commission.]

¹Ins. by the Constitution (Sixth Amendment) Act, 1956, s. 3.

²Subs by the Constitution (Forty-sixth Amendment) Act, 1982, s. 2, for “sale or purchase of goods”.

³Subs. by the Constitution (Eightieth Amendment) Act, 2000, s. 3, for art. 270 (w.e.f. 1-4-1996).

*The words and figures in brackets shall stand substituted as “articles 268, 268A and 269” by the Constitution (Eighty-eighth Amendment) Act, 2003, s. 3 (which is yet not in force, date to be notified later on).

(Part XII.—Finance, Property, Contracts and Suits.—
Arts. 271—274.)

Surcharge on certain duties and taxes for purposes of the Union.

271. Notwithstanding anything in articles 269 and 270, Parliament may at any time increase any of the duties or taxes referred to in those articles by a surcharge for purposes of the Union and the whole proceeds of any such surcharge shall form part of the Consolidated Fund of India.

272. [*Taxes which are levied and collected by the Union and may be distributed between the Union and the States.*] Rep. by the Constitution (Eightieth Amendment) Act, 2000, s. 4.

Grants in lieu of export duty on jute and jute products.

273. (1) There shall be charged on the Consolidated Fund of India in each year as grants-in-aid of the revenues of the States of Assam, Bihar, Orissa and West Bengal, in lieu of assignment of any share of the net proceeds in each year of export duty on jute and jute products to those States, such sums as may be prescribed.

(2) The sums so prescribed shall continue to be charged on the Consolidated Fund of India so long as any export duty on jute or jute products continues to be levied by the Government of India or until the expiration of ten years from the commencement of this Constitution whichever is earlier.

(3) In this article, the expression “prescribed” has the same meaning as in article 270.

Prior recommendation of President required to Bills affecting taxation in which States are interested.

274. (1) No Bill or amendment which imposes or varies any tax or duty in which States are interested, or which varies the meaning of the expression “agricultural income” as defined for the purposes of the enactments relating to Indian income-tax, or which affects the principles on which under any of the foregoing provisions of this Chapter moneys are or may be distributable to States, or which imposes any such surcharge for the purposes of the Union as is mentioned in the foregoing provisions of this Chapter, shall be introduced or moved in either House of Parliament except on the recommendation of the President.

(2) In this article, the expression “tax or duty in which States are interested” means—

(a) a tax or duty the whole or part of the net proceeds whereof are assigned to any State; or

(Part XII.—*Finance, Property, Contracts and Suits.*—
Arts. 274-275.)

(b) a tax or duty by reference to the net proceeds whereof sums are for the time being payable out of the Consolidated Fund of India to any State.

275. (1) Such sums as Parliament may by law provide shall be charged on the Consolidated Fund of India in each year as grants-in-aid of the revenues of such States as Parliament may determine to be in need of assistance, and different sums may be fixed for different States:

Grants from the Union to certain States.

Provided that there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of a State such capital and recurring sums as may be necessary to enable that State to meet the costs of such schemes of development as may be undertaken by the State with the approval of the Government of India for the purpose of promoting the welfare of the Scheduled Tribes in that State or raising the level of administration of the Scheduled Areas therein to that of the administration of the rest of the areas of that State:

Provided further that there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of the State of Assam sums, capital and recurring, equivalent to—

(a) the average excess of expenditure over the revenues during the two years immediately preceding the commencement of this Constitution in respect of the administration of the tribal areas specified in ¹[Part I] of the table appended to paragraph 20 of the Sixth Schedule; and

(b) the costs of such schemes of development as may be undertaken by that State with the approval of the Government of India for the purpose of raising

¹Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71, for "Part A" (w.e.f. 21-1-1972).

(Part XII.—*Finance, Property, Contracts and Suits.*—
Art. 275.)

the level of administration of the said areas to that of the administration of the rest of the areas of that State.

¹[(1A) On and from the formation of the autonomous State under article 244A,—

(i) any sums payable under clause (a) of the second proviso to clause (1) shall, if the autonomous State comprises all the tribal areas referred to therein, be paid to the autonomous State, and, if the autonomous State comprises only some of those tribal areas, be apportioned between the State of Assam and the autonomous State as the President may, by order, specify;

(ii) there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of the autonomous State sums, capital and recurring, equivalent to the costs of such schemes of development as may be undertaken by the autonomous State with the approval of the Government of India for the purpose of raising the level of administration of that State to that of the administration of the rest of the State of Assam.]

(2) Until provision is made by Parliament under clause (1), the powers conferred on Parliament under that clause shall be exercisable by the President by order and any order made by the President under this clause shall have effect subject to any provision so made by Parliament:

Provided that after a Finance Commission has been constituted no order shall be made under this clause by the President except after considering the recommendations of the Finance Commission.

¹Ins. by the Constitution (Twenty-second Amendment) Act, 1969, s. 3.

(Part XII.—Finance, Property, Contracts and Suits.—
Arts. 276—278.)

276. (1) Notwithstanding anything in article 246, no law of the Legislature of a State relating to taxes for the benefit of the State 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.

Taxes on professions, trades, callings and employments.

(2) The total amount payable in respect of any one person to the State or to any one municipality, district board, local board or other local authority in the State by way of taxes on professions, trades, callings and employments shall not exceed ¹[two thousand and five hundred rupees] per annum.

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(3) The power of the Legislature of a State to make laws as aforesaid with respect to taxes on professions, trades, callings and employments shall not be construed as limiting in any way the power of Parliament to make laws with respect to taxes on income accruing from or arising out of professions, trades, callings and employments.

277. Any taxes, duties, cesses or fees which, immediately before the commencement of this Constitution, were being lawfully levied by the Government of any State or by any municipality or other local authority or body for the purposes of the State, municipality, district or other local area may, notwithstanding that those taxes, duties, cesses or fees are mentioned in the Union List, continue to be levied and to be applied to the same purposes until provision to the contrary is made by Parliament by law.

Savings.

278. [*Agreement with States in Part B of the First Schedule with regard to certain financial matters.*] Rep. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

¹Subs. by the Constitution (Sixtieth Amendment) Act, 1988, s. 2, for “two hundred and fifty rupees”.

²Proviso omitted by s. 2, *ibid.*

*(Part XII.—Finance, Property, Contracts and Suits.—
Arts. 279-280.)*

Calculation of "net proceeds", etc.

279. (1) In the foregoing provisions of this Chapter, "net proceeds" means in relation to any tax or duty the proceeds thereof reduced by the cost of collection, and for the purposes of those provisions the net proceeds of any tax or duty, or of any part of any tax or duty, in or attributable to any area shall be ascertained and certified by the Comptroller and Auditor-General of India, whose certificate shall be final.

(2) Subject as aforesaid, and to any other express provision of this Chapter, a law made by Parliament or an order of the President may, in any case where under this Part the proceeds of any duty or tax are, or may be, assigned to any State, provide for the manner in which the proceeds are to be calculated, for the time from or at which and the manner in which any payments are to be made, for the making of adjustments between one financial year and another, and for any other incidental or ancillary matters.

Finance
Commission.

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.

(2) Parliament may by law determine the qualifications which shall be requisite for appointment as members of the Commission and the manner in which they shall be selected.

(3) It shall be the duty of the Commission to make recommendations to the President as to—

(a) the distribution between the Union and the States of the net proceeds of taxes which are to be, or may be, divided between them under this Chapter and the allocation between the States of the respective shares of such proceeds;

(b) the principles which should govern the grants-in-aid of the revenues of the States out of the Consolidated Fund of India;

(Part XII.—*Finance, Property, Contracts and Suits.*—
Arts. 280—283.)

¹[(*bb*) the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Panchayats in the State on the basis of the recommendations made by the Finance Commission of the State;]

²[(*c*) the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Municipalities in the State on the basis of the recommendations made by the Finance Commission of the State;]

³[(*d*)] any other matter referred to the Commission by the President in the interests of sound finance.

(4) The Commission shall determine their procedure and shall have such powers in the performance of their functions as Parliament may by law confer on them.

281. The President shall cause every recommendation made by the Finance Commission under the provisions of this Constitution together with an explanatory memorandum as to the action taken thereon to be laid before each House of Parliament.

Recommendations of the Finance Commission.

Miscellaneous Financial Provisions

282. The Union or a State may make any grants for any public purpose, notwithstanding that the purpose is not one with respect to which Parliament or the Legislature of the State, as the case may be, may make laws.

Expenditure defrayable by the Union or a State out of its revenues.

283. (1) The custody of the Consolidated Fund of India and the Contingency Fund of India, the payment of moneys into such Funds, the withdrawal of moneys therefrom, the custody of public moneys other than those credited to such Funds received by or on behalf of the Government of India, their payment into the public account of India and the withdrawal of moneys from such account and all other matters connected with or

Custody, etc., of Consolidated Funds, Contingency Funds and moneys credited to the public accounts.

¹Ins. by the Constitution (Seventy-third Amendment) Act, 1992, s. 3 (w.e.f. 24-4-1993).

²Ins. by the Constitution (Seventy-fourth Amendment) Act, 1992, s. 3 (w.e.f. 1-6-1993).

³Sub-clause (*c*) re-lettered as sub-clause (*d*) by s. 3, *ibid.* (w.e.f. 1-6-1993).

*(Part XII.—Finance, Property, Contracts and Suits.—
Arts. 283—285.)*

ancillary to matters aforesaid shall be regulated by law made by Parliament, and, until provision in that behalf is so made, shall be regulated by rules made by the President.

(2) The custody of the Consolidated Fund of a State and the Contingency Fund of a State, the payment of moneys into such Funds, the withdrawal of moneys therefrom, the custody of public moneys other than those credited to such Funds received by or on behalf of the Government of the State, their payment into the public account of the State and the withdrawal of moneys from such account and all other matters connected with or ancillary to matters aforesaid shall be regulated by law made by the Legislature of the State, and, until provision in that behalf is so made, shall be regulated by rules made by the Governor^{1***} of the State.

Custody of
suitsors' deposits
and other moneys
received by public
servants and
courts.

284. All moneys received by or deposited with—

(a) any officer employed in connection with the affairs of the Union or of a State in his capacity as such, other than revenues or public moneys raised or received by the Government of India or the Government of the State, as the case may be, or

(b) any court within the territory of India to the credit of any cause, matter, account or persons,

shall be paid into the public account of India or the public account of State, as the case may be.

Exemption of
property of the
Union from State
taxation.

285. (1) The property of the Union shall, save in so far as Parliament may by law otherwise provide, be exempt from all taxes imposed by a State or by any authority within a State.

(2) Nothing in clause (1) shall, until Parliament by law otherwise provides, prevent any authority within a State from levying any tax on any property of the Union to which such property was immediately before the commencement of this Constitution liable or treated as liable, so long as that tax continues to be levied in that State.

¹The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

(Part XII.—Finance, Property, Contracts and Suits.—
Arts. 286-287.)

286. (1) No law of a State shall impose, or authorise the imposition of, a tax on the sale or purchase of goods where such sale or purchase takes place—

Restrictions as to
imposition of tax
on the sale or
purchase of goods.

(a) outside the State; or

(b) in the course of the import of the goods into, or export of the goods out of, the territory of India.

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²[(2) Parliament may by law formulate principles for determining when a sale or purchase of goods takes place in any of the ways mentioned in clause (1).

³[(3) Any law of a State shall, in so far as it imposes, or authorises the imposition of,—

(a) a tax on the sale or purchase of goods declared by Parliament by law to be of special importance in inter-State trade or commerce; or

(b) a tax on the sale or purchase of goods, being a tax of the nature referred to in sub-clause (b), sub-clause (c) or sub-clause (d) of clause (29A) of article 366.

be subject to such restrictions and conditions in regard to the system of levy, rates and other incidents of the tax as Parliament may by law specify.]]

287. Save in so far as Parliament may by law otherwise provide, no law of a 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—

Exemption from taxes on electricity.

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

(b) consumed in the construction, maintenance or operation of any railway by the Government of India or a railway company operating that railway, or sold to that Government or any such railway

¹*Explanation* to cl. (1) omitted by the Constitution (Sixth Amendment) Act, 1956, s. 4.

²Subs. by s. 4, *ibid.*, for cls. (2) and (3).

³Subs. by the Constitution (Forty-sixth Amendment) Act, 1982, s. 3, for cl. (3).

*(Part XII.—Finance, Property, Contracts and Suits.—
Arts. 287—289.)*

company for consumption in the construction, maintenance or operation of any 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 Government of India for consumption by that Government, or to any such railway company as aforesaid for consumption in the construction, maintenance or operation of any railway, shall be less by the amount of the tax than the price charged to other consumers of a substantial quantity of electricity.

Exemption from taxation by States in respect of water or electricity in certain cases.

288. (1) Save in so far as the President may by order otherwise provide, no law of a State in force immediately before the commencement of this Constitution shall impose, or authorise the imposition of, a tax in respect of any water or electricity stored, generated, consumed, distributed or sold by any authority established by any existing law or any law made by Parliament for regulating or developing any inter-State river or river-valley.

Explanation.—The expression “law of a State in force” in this clause shall include a law of a State passed or made before the commencement of this Constitution and not previously repealed, notwithstanding that it or parts of it may not be then in operation either at all or in particular areas.

(2) The Legislature of a State may by law impose, or authorise the imposition of, any such tax as is mentioned in clause (1), but no such law shall have any effect unless it has, after having been reserved for the consideration of the President, received his assent; and if any such law provides for the fixation of the rates and other incidents of such tax by means of rules or orders to be made under the law by any authority, the law shall provide for the previous consent of the President being obtained to the making of any such rule or order.

Exemption of property and income of a State from Union taxation.

289. (1) The property and income of a State shall be exempt from Union taxation.

(2) Nothing in clause (1) shall prevent the Union from imposing, or authorising the imposition of, any tax to such extent, if any, as Parliament may by law provide

(Part XII.—*Finance, Property, Contracts and Suits.*—
Arts. 289—290A.)

in respect of a trade or business of any kind carried on by, or on behalf of, the Government of a State, or any operations connected therewith, or any property used or occupied for the purposes of such trade or business, or any income accruing or arising in connection therewith.

(3) Nothing in clause (2) shall apply to any trade or business, or to any class of trade or business, which Parliament may by law declare to be incidental to the ordinary functions of Government.

290. Where under the provisions of this Constitution the expenses of any court or Commission, or the pension payable to or in respect of a person who has served before the commencement of this Constitution under the Crown in India or after such commencement in connection with the affairs of the Union or of a State, are charged on the Consolidated Fund of India or the Consolidated Fund of a State, then, if—

(a) in the case of a charge on the Consolidated Fund of India, the court or Commission serves any of the separate needs of a State, or the person has served wholly or in part in connection with the affairs of a State; or

(b) in the case of a charge on the Consolidated Fund of a State, the court or Commission serves any of the separate needs of the Union or another State, or the person has served wholly or in part in connection with the affairs of the Union or another State,

there shall be charged on and paid out of the Consolidated Fund of the State or, as the case may be, the Consolidated Fund of India or the Consolidated Fund of the other State, such contribution in respect of the expenses or pension as may be agreed, or as may in default of agreement be determined by an arbitrator to be appointed by the Chief Justice of India.

¹[**290A.** A sum of forty-six lakhs and fifty thousand rupees shall be charged on, and paid out of, the Consolidated Fund of the State of Kerala every year to

Adjustment in respect of certain expenses and pensions.

Annual payment to certain Devaswom Funds.

¹Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 19.

(Part XII.—Finance, Property, Contracts and Suits.—
Arts. 290A—293.)

the Travancore Devaswom Fund; and a sum of thirteen lakhs and fifty thousand rupees shall be charged on, and paid out of, the Consolidated Fund of the State of ¹[Tamil Nadu] every year to the Devaswom Fund established in that State for the maintenance of Hindu temples and shrines in the territories transferred to that State on the 1st day of November, 1956, from the State of Travancore-Cochin.]

291. [*Privy purse sums of Rulers.*] Rep. by the Constitution (Twenty-sixth Amendment) Act, 1971, s. 2.

CHAPTER II.—BORROWING

Borrowing by the
Government of
India.

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.

Borrowing by
States.

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.

(2) The Government of India may, subject to such conditions as may be laid down by or under any law made by Parliament, make loans to any State or, so long as any limits fixed under article 292 are not exceeded, give guarantees in respect of loans raised by any State, and any sums required for the purpose of making such loans shall be charged on the Consolidated Fund of India.

(3) A State may not without the consent of the Government of India raise any loan if there is still outstanding any part of a loan which has been made to the State by the Government of India or by its predecessor Government, or in respect of which a guarantee has been given by the Government of India or by its predecessor Government.

¹Subs. by the Madras State (Alteration of Name) Act, 1968 (53 of 1968), s. 4, for "Madras" (w.e.f. 14-1-1969).

(Part XII.—*Finance, Property, Contracts and Suits.*—
Arts. 293—295.)

(4) A consent under clause (3) may be granted subject to such conditions, if any, as the Government of India may think fit to impose.

CHAPTER III.—PROPERTY, CONTRACTS, RIGHTS,
LIABILITIES, OBLIGATIONS AND SUITS

294. As from the commencement of this Constitution—

(a) all property and assets which immediately before such commencement were vested in His Majesty for the purposes of the Government of the Dominion of India and all property and assets which immediately before such commencement were vested in His Majesty for the purposes of the Government of each Governor's Province shall vest respectively in the Union and the corresponding State, and

(b) all rights, liabilities and obligations of the Government of the Dominion of India and of the Government of each Governor's Province, whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations respectively of the Government of India and the Government of each corresponding State,

subject to any adjustment made or to be made by reason of the creation before the commencement of this Constitution of the Dominion of Pakistan or of the Provinces of West Bengal, East Bengal, West Punjab and East Punjab.

295. (1) As from the commencement of this Constitution—

(a) all property and assets which immediately before such commencement were vested in any Indian State corresponding to a State specified in Part B of the First Schedule shall vest in the Union, if the purposes for which such property and assets were held immediately before such commencement will thereafter be purposes of the Union relating to any of the matters enumerated in the Union List, and

Succession to property, assets, rights, liabilities and obligations in certain cases.

Succession to property, assets, rights, liabilities and obligations in other cases.

(Part XII.—Finance, Property, Contracts and Suits.—
Arts. 295-296.)

(b) all rights, liabilities and obligations of the Government of any Indian State corresponding to a State specified in Part B of the First Schedule, whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations of the Government of India, if the purposes for which such rights were acquired or liabilities or obligations were incurred before such commencement will thereafter be purposes of the Government of India relating to any of the matters enumerated in the Union List,

subject to any agreement entered into in that behalf by the Government of India with the Government of that State.

(2) Subject as aforesaid, the Government of each State specified in Part B of the First Schedule shall, as from the commencement of this Constitution, be the successor of the Government of the corresponding Indian State as regards all property and assets and all rights, liabilities and obligations, whether arising out of any contract or otherwise, other than those referred to in clause (1).

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

296. Subject as hereinafter provided, any property in the territory of India which, if this Constitution had not come into operation, would have accrued to His Majesty or, as the case may be, to the Ruler of an Indian State by escheat or lapse, or as *bona vacantia* for want of a rightful owner, shall, if it is property situate in a State, vest in such State, and shall, in any other case, vest in the Union:

Provided that any property which at the date when it would have so accrued to His Majesty or to the Ruler of an Indian State was in the possession or under the control of the Government of India or the Government of a State shall, according as the purposes for which it was then used or held were purposes of the Union or of a State, vest in the Union or in that State.

Explanation.—In this article, the expressions “Ruler” and “Indian State” have the same meanings as in article 363.

(Part XII.—*Finance, Property, Contracts and Suits.*—
Arts. 297—299.)

¹[297. (1) All lands, minerals and other things of value underlying the ocean within the territorial waters, or the continental shelf, or the exclusive economic zone, of India shall vest in the Union and be held for the purposes of the Union.

Things of value within territorial waters or continental shelf and resources of the exclusive economic zone to vest in the Union.

(2) All other resources of the exclusive economic zone of India shall also vest in the Union and be held for the purposes of the Union.

(3) The limits of the territorial waters, the continental shelf, the exclusive economic zone, and other maritime zones, of India shall be such as may be specified, from time to time, by or under any law made by Parliament.]

²[298. The executive power of the Union and of each State shall extend to the carrying on of any trade or business and to the acquisition, holding and disposal of property and the making of contracts for any purpose:

Power to carry on trade, etc.

Provided that—

(a) the said executive power of the Union shall, in so far as such trade or business or such purpose is not one with respect to which Parliament may make laws, be subject in each State to legislation by the State; and

(b) the said executive power of each State shall, in so far as such trade or business or such purpose is not one with respect to which the State Legislature may make laws, be subject to legislation by Parliament.]

299. (1) All contracts made in the exercise of the executive power of the Union or of a State shall be expressed to be made by the President, or by the Governor ^{3***} of the State, as the case may be, and all such contracts and all assurances of property made in the exercise of that power shall be executed on behalf of

Contracts.

¹Subs. by the Constitution (Fortieth Amendment) Act, 1976, s. 2, for art. 297 (w.e.f. 27-5-1976).

²Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 20, for art. 298.

³The words "or the Rajpramukh" omitted by s. 29 and Sch., *ibid.*

(Part XII.—*Finance, Property, Contracts and Suits.*—
Arts. 299—300A.)

the President or the Governor ^{1***} by such persons and in such manner as he may direct or authorise.

(2) Neither the President nor the Governor ^{2***} shall be personally liable in respect of any contract or assurance made or executed for the purposes of this Constitution, or for the purposes of any enactment relating to the Government of India heretofore in force, nor shall any person making or executing any such contract or assurance on behalf of any of them be personally liable in respect thereof.

Suits and
proceedings.

300. (1) The Government of India may sue or be sued by the name of the Union of India and the Government of a State may sue or be sued by the name of the State and may, subject to any provisions which may be made by Act of Parliament or of the Legislature of such State enacted by virtue of powers conferred by this Constitution, sue or be sued in relation to their respective affairs in the like cases as the Dominion of India and the corresponding Provinces or the corresponding Indian States might have sued or been sued if this Constitution had not been enacted.

(2) If at the commencement of this Constitution—

(a) any legal proceedings are pending to which the Dominion of India is a party, the Union of India shall be deemed to be substituted for the Dominion in those proceedings; and

(b) any legal proceedings are pending to which a Province or an Indian State is a party, the corresponding State shall be deemed to be substituted for the Province or the Indian State in those proceedings.

³[CHAPTER IV.—RIGHT TO PROPERTY

Persons not to be
deprived of
property save by
authority of law.

300A. No person shall be deprived of his property save by authority of law.]

¹The words “or the Rajpramukh” omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

²The words “nor the Rajpramukh” omitted by s. 29 and Sch., *ibid.*

³Ins. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 34 (w.e.f. 20-6-1979).

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.

Freedom of trade, commerce and intercourse.

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.

Power of Parliament to impose restrictions on trade, commerce and intercourse.

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.

Restrictions on the legislative powers of the Union and of the States with regard to trade and commerce.

(2) Nothing in clause (1) shall prevent Parliament from making any law giving, or authorising the giving of, any preference or making, or authorising the making of, any discrimination if it is declared by such law that it is necessary to do so for the purpose of dealing with a situation arising from scarcity of goods in any part of the territory of India.

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

Restrictions on trade, commerce and intercourse among States.

(a) impose on goods imported from other States¹[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

¹Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

(Part XIII.—*Trade, Commerce and Intercourse within the Territory of India.*—Arts. 304—307.)

(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.

Saving of existing laws and laws providing for State monopolies.

¹[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 a State from making any law relating to, any such matter as is referred to in sub-clause (ii) of clause (6) of article 19.]

306. [Power of certain States in Part B of the First Schedule to impose restrictions on trade and commerce.] Rep. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

Appointment of authority for carrying out the purposes of articles 301 to 304.

307. Parliament may by law appoint such authority as it considers appropriate for carrying out the purposes of articles 301, 302, 303 and 304, and confer on the authority so appointed such powers and such duties as it thinks necessary.

¹Subs. by the Constitution (Fourth Amendment) Act, 1955, s. 4, for art. 305.

PART XIV

SERVICES UNDER THE UNION AND THE STATES

CHAPTER I.—SERVICES

308. In this Part, unless the context otherwise requires, the expression “State” ¹[does not include the State of Jammu and Kashmir].

Interpretation.

309. Subject to the provisions of this Constitution, Acts of the appropriate Legislature may regulate the recruitment, and conditions of service of persons appointed, to public services and posts in connection with the affairs of the Union or of any State:

Recruitment and conditions of service of persons serving the Union or a State.

Provided that it shall be competent for the President or such person as he may direct in the case of services and posts in connection with the affairs of the Union, and for the Governor ^{2***} of a State or such person as he may direct in the case of services and posts in connection with the affairs of the State, to make rules regulating the recruitment, and the conditions of service of persons appointed, to such services and posts until provision in that behalf is made by or under an Act of the appropriate Legislature under this article, and any rules so made shall have effect subject to the provisions of any such Act.

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 ^{3***} of the State.

Tenure of office of persons serving the Union or a State.

(2) Notwithstanding that a person holding a civil post under the Union or a State holds office during the

¹ Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch., for “means a State specified in Part A or Part B of the First Schedule”.

²The words “or Rajpramukh” omitted by s. 29 and Sch., *ibid*.

³The words “or, as the case may be, the Rajpramukh” omitted by s. 29 and Sch., *ibid*.

(Part XIV.—*Services under the Union and the States.*—
Arts. 310—311.)

pleasure of the President or, as the case may be, of the Governor ^{1***} 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 ^{2***}, 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.

Dismissal, removal
or reduction in rank
of persons
employed in civil
capacities under the
Union or a State.

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.

³[(2) No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges ^{4***}:

⁵[Provided that where it is proposed after such inquiry, to impose upon him any such penalty, such penalty may be imposed on the basis of the evidence adduced during such inquiry and it shall not be necessary to give such person any opportunity of making representation on the penalty proposed:

Provided further that this clause shall not apply—]

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

¹The words "or the Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

²The words "or the Rajpramukh" omitted by s. 29 and Sch., *ibid*.

³Subs. by the Constitution (Fifteenth Amendment) Act, 1963, s. 10, for cls. (2) and (3).

⁴Certain words omitted by the Constitution (Forty-second Amendment) Act, 1976, s. 44 (w.e.f. 3-1-1977).

⁵Subs. by s. 44, *ibid.*, for certain words (w.e.f. 3-1-1977).

(Part XIV.—*Services under the Union and the States.*—
Arts. 311—312.)

(b) where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry; or

(c) where the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State it is not expedient to hold such inquiry.

(3) If, in respect of any such person as aforesaid, a question arises whether it is reasonably practicable to hold such inquiry as is referred to in clause (2), the decision thereon of the authority empowered to dismiss or remove such person or to reduce him in rank shall be final.]

312. (1) Notwithstanding anything in ¹[Chapter VI of Part VI or Part XI], 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 so to do, Parliament may by law provide for the creation of one or more all India services ²[(including an all-India judicial service)] common to the Union and the States, and, subject to the other provisions of this Chapter, regulate the recruitment, and the conditions of service of persons appointed, to any such service.

All-India services.

(2) The services known at the commencement of this Constitution as the Indian Administrative Service and the Indian Police Service shall be deemed to be services created by Parliament under this article.

²[(3) The all-India judicial service referred to in clause (1) shall not include any post inferior to that of a district judge as defined in article 236.

(4) The law providing for the creation of the all-India judicial service aforesaid may contain such provisions for the amendment of Chapter VI of Part VI

¹Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 45, for "Part XI" (w.e.f. 3-1-1977).

²Ins. by s. 45, *ibid.* (w.e.f. 3-1-1977).

*(Part XIV.—Services under the Union and the States.—
Arts. 312—312A.)*

as may be necessary for giving effect to the provisions of that law and no such law shall be deemed to be an amendment of this Constitution for the purposes of article 368.]

Power of
Parliament to vary
or revoke
conditions of
service of officers
of certain services.

¹[**312A.** (1) Parliament may by law—

(a) vary or revoke, whether prospectively or retrospectively, the conditions of services as respects remuneration, leave and pension and the rights as respects disciplinary matters of persons who, having been appointed by the Secretary of State or Secretary of State in Council to a civil service of the Crown in India before the commencement of this Constitution, continue on and after the commencement of the Constitution (Twenty-eighth Amendment) Act, 1972, to serve under the Government of India or of a State in any service or post;

(b) vary or revoke, whether prospectively or retrospectively, the conditions of service as respects pension of persons who, having been appointed by the Secretary of State or Secretary of State in Council to a civil service of the Crown in India before the commencement of this Constitution, retired or otherwise ceased to be in service at any time before the commencement of the Constitution (Twenty-eighth Amendment) Act, 1972:

Provided that in the case of any such person who is holding or has held the office of the Chief Justice or other Judge of the Supreme Court or a High Court, the Comptroller and Auditor-General of India, the Chairman or other member of the Union or a State Public Service Commission or the Chief Election Commissioner, nothing in sub-clause (a) or sub-clause (b) shall be construed as empowering Parliament to vary or revoke, after his appointment to such post, the conditions of his service to his disadvantage except in so far as such conditions of service are applicable to him by reason of his being a person appointed by the Secretary of State or Secretary of State in Council to a civil service of the Crown in India.

¹Ins. by the Constitution (Twenty-eighth Amendment) Act, 1972, s. 2 (w.e.f. 29-8-1972).

(Part XIV.—*Services under the Union and the States.*—
Arts. 312A—315.)

(2) Except to the extent provided for by Parliament by law under this article, nothing in this article shall affect the power of any Legislature or other authority under any other provision of this Constitution to regulate the conditions of service of persons referred to in clause (1).

(3) Neither the Supreme Court nor any other court shall have jurisdiction in—

(a) any dispute arising out of any provision of, or any endorsement on, any covenant, agreement or other similar instrument which was entered into or executed by any person referred to in clause (1), or arising out of any letter issued to such person, in relation to his appointment to any civil service of the Crown in India or his continuance in service under the Government of the Dominion of India or a Province thereof;

(b) any dispute in respect of any right, liability or obligation under article 314 as originally enacted.

(4) The provisions of this article shall have effect notwithstanding anything in article 314 as originally enacted or in any other provision of this Constitution.]

313. Until other provision is made in this behalf under this Constitution, all the laws in force immediately before the commencement of this Constitution and applicable to any public service or any post which continues to exist after the commencement of this Constitution, as an all-India service or as service or post under the Union or a State shall continue in force so far as consistent with the provisions of this Constitution.

Transitional provisions.

314. [*Provision for protection of existing officers of certain services.*] Rep. by the Constitution (Twenty-eighth Amendment) Act, 1972, s. 3 (*w.e.f.* 29-8-1972).

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.

Public Service Commissions for the Union and for the States.

*(Part XIV.—Services under the Union and the States.—
Arts. 315—316.)*

(2) Two or more States may agree that there shall be one Public Service Commission for that group of States, and if a resolution to that effect is passed by the House or, where there are two Houses, by each House of the Legislature of each of those States, Parliament may by law provide for the appointment of a Joint State Public Service Commission (referred to in this Chapter as Joint Commission) to serve the needs of those States.

(3) Any such law as aforesaid may contain such incidental and consequential provisions as may be necessary or desirable for giving effect to the purposes of the law.

(4) The Public Service Commission for the Union, if requested so to do by the Governor ^{1***} of a State, may, with the approval of the President, agree to serve all or any of the needs of the State.

(5) References in this Constitution to the Union Public Service Commission or a State Public Service Commission shall, unless the context otherwise requires, be construed as references to the Commission serving the needs of the Union or, as the case may be, the State as respects the particular matter in question.

Appointment and
term of office of
members.

316. (1) The Chairman and other members of a Public Service Commission shall be appointed, in the case of the Union Commission or a Joint Commission, by the President, and in the case of a State Commission, by the Governor ^{1***} of the State:

Provided that as nearly as may be one-half of the members of every Public Service Commission shall be persons who at the dates of their respective appointments have held office for at least ten years either under the Government of India or under the Government of a State, and in computing the said period of ten years any period before the commencement of this Constitution during which a person has held office under the Crown in India or under the Government of an Indian State shall be included.

¹The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

(Part XIV.—*Services under the Union and the States.*—
Arts. 316—317.)

¹[(1A) If the office of the Chairman of the Commission becomes vacant or if any such Chairman is by reason of absence or for any other reason unable to perform the duties of his office, those duties shall, until some person appointed under clause (1) to the vacant office has entered on the duties thereof or, as the case may be, until the Chairman has resumed his duties, be performed by such one of the other members of the Commission as the President, in the case of the Union Commission or a Joint Commission, and the Governor of the State in the case of a State Commission, may appoint for the purpose.

(2) A member of a Public Service Commission shall hold office for a term of six years from the date on which he enters upon his office or until he attains, in the case of the Union Commission, the age of sixty-five years, and in the case of a State Commission or a Joint Commission, the age of ²[sixty-two years], whichever is earlier:

Provided that—

(a) a member of a Public Service Commission may, by writing under his hand addressed, in the case of the Union Commission or a Joint Commission, to the President, and in the case of a State Commission, to the Governor ^{3***} of the State, resign his office;

(b) a member of a Public Service Commission may be removed from his office in the manner provided in clause (1) or clause (3) of article 317.

(3) A person who holds office as a member of a Public Service Commission shall, on the expiration of his term of office, be ineligible for re-appointment to that office.

317. (1) Subject to the provisions of clause (3), the Chairman or any other member of a Public Service Commission shall only be removed from his office by

Removal and suspension of a member of a Public Service Commission.

¹Ins. by the Constitution (Fifteenth Amendment) Act, 1963, s. 11.

²Subs. by the Constitution (Forty-first Amendment) Act, 1976, s. 2, for "sixty years".

³The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

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Art. 317.)

order of the President on the ground of misbehaviour after the Supreme Court, on reference being made to it by the President, has, on inquiry held in accordance with the procedure prescribed in that behalf under article 145, reported that the Chairman or such other member, as the case may be, ought on any such ground to be removed.

(2) The President, in the case of the Union Commission or a Joint Commission, and the Governor ^{1***} in the case of a State Commission, may suspend from office the Chairman or any other member of the Commission in respect of whom a reference has been made to the Supreme Court under clause (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything in clause (1), the President may by order remove from office the Chairman or any other member of a Public Service Commission if the Chairman or such other member, as the case may be,—

(a) is adjudged an insolvent; or

(b) engages during his term of office in any paid employment outside the duties of his office; or

(c) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body.

(4) If the Chairman or any other member of a Public Service Commission is or becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Government of India or the Government of a State or participates in any way in the profit thereof or in any benefit or emolument arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of clause (1), be deemed to be guilty of misbehaviour.

¹The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

((Part XIV.—*Services under the Union and the States.*—
Arts. 318—319.)

318. In the case of the Union Commission or a Joint Commission, the President and, in the case of a State Commission, the Governor ^{1***} of the State may by regulations—

Power to make regulations as to conditions of service of members and staff of the Commission.

(a) determine the number of members of the Commission and their conditions of service; and

(b) make provision with respect to the number of members of the staff of the Commission and their conditions of service:

Provided that the conditions of service of a member of a Public Service Commission shall not be varied to his disadvantage after his appointment.

319. On ceasing to hold office—

Prohibition as to the holding of offices by members of Commission on ceasing to be such members.

(a) the Chairman of the Union Public Service Commission shall be ineligible for further employment either under the Government of India or under the Government of a State;

(b) the Chairman of a State Public Service Commission shall be eligible for appointment as the Chairman or any other member of the Union Public Service Commission or as the Chairman of any other State Public Service Commission, but not for any other employment either under the Government of India or under the Government of a State;

(c) a member other than the Chairman of the Union Public Service Commission shall be eligible for appointment as the Chairman of the Union Public Service Commission, or as the Chairman of a State Public Service Commission, but not for any other employment either under the Government of India or under the Government of a State;

(d) a member other than the Chairman of a State Public Service Commission shall be eligible for appointment as the Chairman or any other member

¹The words “or Rajpramukh” omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

*(Part XIV.—Services under the Union and the States.—
Arts. 319—320.)*

of the Union Public Service Commission or as the Chairman of that or any other State Public Service Commission, but not for any other employment either under the Government of India or under the Government of a State.

Functions of
Public Service
Commissions.

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.

(2) It shall also be the duty of the Union Public Service Commission, if requested by any two or more States so to do, to assist those States in framing and operating schemes of joint recruitment for any services for which candidates possessing special qualifications are required.

(3) The Union Public Service Commission or the State Public Service Commission, as the case may be, shall be consulted—

(a) on all matters relating to methods of recruitment to civil services and for civil posts;

(b) on the principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another and on the suitability of candidates for such appointments, promotions or transfers;

(c) on all disciplinary matters affecting a person serving under the Government of India or the Government of a State in a civil capacity, including memorials or petitions relating to such matters;

(d) on any claim by or in respect of a person who is serving or has served under the Government of India or the Government of a State or under the Crown in India or under the Government of an Indian State, in a civil capacity, that any costs incurred by him in defending legal proceedings instituted against him in respect of acts done or purporting to be done in the execution of his duty should be paid out of the

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Art. 320.)

Consolidated Fund of India, or, as the case may be, out of the Consolidated Fund of the State;

(e) on any claim for the award of a pension in respect of injuries sustained by a person while serving under the Government of India or the Government of a State or under the Crown in India or under the Government of an Indian State, in a civil capacity, and any question as to the amount of any such award,

and it shall be the duty of a Public Service Commission to advise on any matter so referred to them and on any other matter which the President, or, as the case may be, the Governor ^{1**} of the State, may refer to them:

Provided that the President as respects the all-India services and also as respects other services and posts in connection with the affairs of the Union, and the Governor ^{2**}, as respects other services and posts in connection with the affairs of a State, may make regulations specifying the matters in which either generally, or in any particular class of case or in any particular circumstances, it shall not be necessary for a Public Service Commission to be consulted.

(4) Nothing in clause (3) shall require a Public Service Commission to be consulted as respects the manner in which any provision referred to in clause (4) of article 16 may be made or as respects the manner in which effect may be given to the provisions of article 335.

(5) All regulations made under the proviso to clause (3) by the President or the Governor ^{1**} of a State shall be laid for not less than fourteen days before each House of Parliament or the House or each House of the Legislature of the State, as the case may be, as soon as possible after they are made, and shall be subject to such modifications, whether by way of repeal or amendment, as both Houses of Parliament or the House or both Houses

¹The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

²The words "or Rajpramukh, as the case may be" omitted by s. 29 and Sch., *ibid.*

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Arts. 320—323.)

of the Legislature of the State may make during the session in which they are so laid.

Power to extend
functions of
Public Service
Commissions.

321. An Act made by Parliament or, as the case may be, the Legislature of a State may provide for the exercise of additional functions by the Union Public Service Commission or the State Public Service Commission as respects the services of the Union or the State and also as respects the services of any local authority or other body corporate constituted by law or of any public institution.

Expenses of
Public Service
Commissions.

322. The expenses of the Union or a State Public Service Commission, including any salaries, allowances and pensions payable to or in respect of the members or staff of the Commission, shall be charged on the Consolidated Fund of India or, as the case may be, the Consolidated Fund of the State.

Reports of Public
Service
Commissions.

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.

(2) It shall be the duty of a State Commission to present annually to the Governor ^{1***} of the State a report as to the work done by the Commission, and it shall be the duty of a Joint Commission to present annually to the Governor ^{1***} of each of the States the needs of which are served by the Joint Commission a report as to the work done by the Commission in relation to that State, and in either case the Governor ^{2***}, shall, on receipt of such report, 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 the Legislature of the State.

¹The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

²The words "or Rajpramukh, as the case may be" omitted by s. 29 and Sch., *ibid.*

¹[PART XIVA TRIBUNALS

323A. (1) Parliament may, by law, provide for the adjudication or trial by administrative tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation owned or controlled by the Government.

Administrative
tribunals.

(2) A law made under clause (1) may—

(a) provide for the establishment of an administrative tribunal for the Union and a separate administrative tribunal for each State or for two or more States;

(b) specify the jurisdiction, powers (including the power to punish for contempt) and authority which may be exercised by each of the said tribunals;

(c) provide for the procedure (including provisions as to limitation and rules of evidence) to be followed by the said tribunals;

(d) exclude the jurisdiction of all courts, except the jurisdiction of the Supreme Court under article 136, with respect to the disputes or complaints referred to in clause (1);

(e) provide for the transfer to each such administrative tribunal of any cases pending before any court or other authority immediately before the establishment of such tribunal as would have been within the jurisdiction of such tribunal if the causes of action on which such suits or proceedings are based had arisen after such establishment;

(f) repeal or amend any order made by the President under clause (3) of article 371D;

¹Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 46 (w.e.f. 3-1-1977).

(Part XIVA.—Tribunals.—Arts. 323A—323B.)

(g) contain such supplemental, incidental and consequential provisions (including provisions as to fees) as Parliament may deem necessary for the effective functioning of, and for the speedy disposal of cases by, and the enforcement of the orders of, such tribunals.

(3) The provisions of this article shall have effect notwithstanding anything in any other provision of this Constitution or in any other law for the time being in force.

Tribunals for
other matters.

323B. (1) The appropriate Legislature may, by law, provide for the adjudication or trial by tribunals of any disputes, complaints, or offences with respect to all or any of the matters specified in clause (2) with respect to which such Legislature has power to make laws.

(2) The matters referred to in clause (1) are the following, namely:—

(a) levy, assessment, collection and enforcement of any tax;

(b) foreign exchange, import and export across customs frontiers;

(c) industrial and labour disputes;

(d) land reforms by way of acquisition by the State of any estate as defined in article 31A or of any rights therein or the extinguishment or modification of any such rights or by way of ceiling on agricultural land or in any other way;

(e) ceiling on urban property;

(f) elections to either House of Parliament or the House or either House of the Legislature of a State, but excluding the matters referred to in article 329 and article 329A;

(g) production, procurement, supply and distribution of food-stuffs (including edible oilseeds and oils) and such other goods as the President may, by public notification, declare to be essential goods

(Part XIVA.—Tribunals.—Art. 323B.)

for the purpose of this article and control of prices of such goods;

¹[(*h*) rent, its regulation and control and tenancy issues including the right, title and interest of landlords and tenants;]

²[(*i*) offences against laws with respect to any of the matters specified in sub-clauses (*a*) to ³[(*h*)] and fees in respect of any of those matters;

²[(*j*)] any matter incidental to any of the matters specified in sub-clauses (*a*) to ⁴[(*i*)].

(3) A law made under clause (1) may—

(*a*) provide for the establishment of a hierarchy of tribunals;

(*b*) specify the jurisdiction, powers (including the power to punish for contempt) and authority which may be exercised by each of the said tribunals;

(*c*) provide for the procedure (including provisions as to limitation and rules of evidence) to be followed by the said tribunals;

(*d*) exclude the jurisdiction of all courts, except the jurisdiction of the Supreme Court under article 136, with respect to all or any of the matters falling within the jurisdiction of the said tribunals;

(*e*) provide for the transfer to each such tribunal of any cases pending before any court or any other authority immediately before the establishment of such tribunal as would have been within the jurisdiction of such tribunal if the causes of action on which such suits or proceedings are based had arisen after such establishment;

¹Ins. by the Constitution (Seventy-fifth Amendment) Act, 1993, s. 2 (w.e.f. 15-5-1994).

²Sub-clauses (*h*) and (*i*) re-lettered as sub-clauses (*i*) and (*j*) by s. 2, *ibid.* (w.e.f. 15-5-1994).

³Subs. by s. 2, *ibid.*, for “(*g*)” (w.e.f. 15-5-1994).

⁴Subs. by s. 2, *ibid.*, for “(*h*)” (w.e.f. 15-5-1994).

(Part XIVA.—*Tribunals*.—Art. 323B.)

(f) contain such supplemental, incidental and consequential provisions (including provisions as to fees) as the appropriate Legislature may deem necessary for the effective functioning of, and for the speedy disposal of cases by, and the enforcement of the orders of, such tribunals.

(4) The provisions of this article shall have effect notwithstanding anything in any other provision of this Constitution or in any other law for the time being in force.

Explanation.—In this article, “appropriate Legislature”, in relation to any matter, means Parliament or, as the case may be, a State Legislature competent to make laws with respect to such matter in accordance with the provisions of Part XI.]

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 ^{1***} shall be vested in a Commission (referred to in this Constitution as the Election Commission).

Superintendence,
direction and
control of elections
to be vested in an
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 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:

¹The words "including the appointment of election tribunals for the decision of doubts and disputes arising out of or in connection with elections to Parliament and to the Legislatures of States" omitted by the Constitution (Nineteenth Amendment) Act, 1966, s. 2.

(Part XV.—Elections.—Arts. 324—326.)

Provided that the Chief Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of the Supreme Court and the conditions of service of the Chief Election Commissioner shall not be varied to his disadvantage after his appointment:

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

(6) The President, or the Governor ^{1***} of a State, shall, when so requested by the Election Commission, make available to the Election Commission or to a Regional Commissioner such staff as may be necessary for the discharge of the functions conferred on the Election Commission by clause (1).

No person to be ineligible for inclusion in, or to claim to be included in a special, electoral roll on grounds of religion, race, caste or sex.

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.

Elections to the House of the People and to the Legislative Assemblies of States to be on the basis of adult suffrage.

326. The elections to the House of the People and to the Legislative Assembly of every State shall be on the basis of adult suffrage; that is to say, every person who is a citizen of India and who is not less than ²[eighteen 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 or 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.

¹The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

²Subs. by the Constitution (Sixty-first Amendment) Act, 1988, s. 2, for "twenty-one years".

(Part XV.—Elections.—Arts. 327—329A.)

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.

Power of Parliament to make provision with respect to elections to Legislatures.

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.

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

329. ¹[Notwithstanding anything in this Constitution
2***—]

Bar to interference by courts in electoral matters.

(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 327 or article 328, shall not be called in question in any court;

(b) no election to either House of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature.

³329A. [*Special provision as to elections to Parliament in the case of Prime Minister and Speaker.*] Rep. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 36 (w.e.f. 20-6-1979).

¹Subs. by the Constitution (Thirty-ninth Amendment) Act, 1975, s. 3, for certain words.

²The words, figures and letters "but subject to the provisions of article 329A" omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 35 (w.e.f. 20-6-1979).

³Ins. by the Constitution (Thirty-ninth Amendment) Act, 1975, s. 4.

PART XVI

SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES

Reservation of seats
for Scheduled
Castes and
Scheduled Tribes in
the House of the
People.

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

(a) the Scheduled Castes;

¹[(b) the Scheduled Tribes except the Scheduled Tribes in the autonomous districts of Assam; and]

(c) the Scheduled Tribes in the autonomous districts of Assam.

(2) The number of seats reserved in any State ²[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 ²[or Union territory] in the House of the People as the population of the Scheduled Castes in the State ²[or Union territory] or of the Scheduled Tribes in the State ²[or Union territory] or part of the State ²[or Union territory, as the case may be, in respect of which seats are so reserved, bears to the total population of the State ²[or Union territory].

³[(3) Notwithstanding anything contained in clause (2), the number of seats reserved in the House of the People for the Scheduled Tribes in the autonomous districts of Assam shall bear to the total number of seats allotted to that State a proportion not less than the population of the Scheduled Tribes in the said autonomous districts bears to the total population of the State.]

⁴[*Explanation*—In this article and in article 332, the expression “population” means the population as

¹Subs. by the Constitution (Fifty-first Amendment) Act, 1984, s. 2, for sub-clause (b) (w.e.f. 16-6-1986).

²Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

³Ins. by the Constitution (Thirty-first Amendment) Act, 1973, s. 3.

⁴Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 47 (w.e.f. 3-1-1977).

(Part XVI.—*Special Provisions relating to certain Classes.*—Arts. 330—332.)

ascertained at the last preceding census of which the relevant figures have been published:

Provided that the reference in this *Explanation* to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year ¹[2026] have been published, be construed as a reference to the ²[2001] census.]

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.

Representation of the Anglo-Indian Community in the House of the People.

332. (1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes, ³[except the Scheduled Tribes in the autonomous districts of Assam], in the Legislative Assembly of every State ^{4***}.

Reservation of seats for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States.

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

(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.

⁵[(3A) Notwithstanding anything contained in clause (3), until the taking effect, under article 170, of the re-adjustment, on the basis of the first census after the year ⁶[2026], of the number of seats in the Legislative

¹Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 6, for "2000" and "1971" respectively.

²Subs. by the Constitution (Eighty-seventh Amendment) Act, 2003, s. 5, for "1991".

³Subs. by the Constitution (Fifty-first Amendment) Act, 1984, s. 3, for certain words (w.e.f. 16-6-1986).

⁴The 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.

⁵Ins. by the Constitution (Fifty-seventh Amendment) Act, 1987, s. 2 (w.e.f. 21-9-1987).

⁶Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 7, for "2000".

*(Part XVI.—Special Provisions relating to certain
Classes.—Art. 332.)*

Assemblies of the States of Arunachal Pradesh, Meghalaya, Mizoram and Nagaland, the seats which shall be reserved for the Scheduled Tribes in the Legislative Assembly of any such State shall be,—

(a) if all the seats in the Legislative Assembly of such State in existence on the date of coming into force of the Constitution (Fifty-seventh Amendment) Act, 1987 (hereafter in this clause referred to as the existing Assembly) are held by members of the Scheduled Tribes, all the seats except one;

(b) in any other case, such number of seats as bears to the total number of seats, a proportion not less than the number (as on the said date) of members belonging to the Scheduled Tribes in the existing Assembly bears to the total number of seats in the existing Assembly.]

¹[(3B) Notwithstanding anything contained in clause (3), until the re-adjustment, under article 170, takes effect on the basis of the first census after the year ²[2026], of the number of seats in the Legislative Assembly of the State of Tripura, the seats which shall be reserved for the Scheduled Tribes in the Legislative Assembly shall be, such number of seats as bears to the total number of seats, a proportion not less than the number, as on the date of coming into force of the Constitution (Seventy-second Amendment) Act, 1992, of members belonging to the Scheduled Tribes in the Legislative Assembly in existence on the said date bears to the total number of seats in that Assembly.]

(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.

(5) The constituencies for the seats reserved for any autonomous district of Assam shall not comprise any area outside that district ^{3***}.

¹Ins. by the Constitution (Seventy-second Amendment) Act, 1992, s. 2 (w.e.f. 5-12-1992).

²Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 7, for "2000".

³Certain words omitted by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71 (w.e.f. 21-1-1972).

(Part XVI.—*Special Provisions relating to certain Classes.*—Arts. 332—334.)

(6) No person who is not a member of a Scheduled Tribe of any autonomous district of the State of Assam shall be eligible for election to the Legislative Assembly of the State from any constituency of that district ^{1***}:

²[Provided that for elections to the Legislative Assembly of the State of Assam, the representation of the Scheduled Tribes and non-Scheduled Tribes in the constituencies included in the Bodoland Territorial Areas District, so notified, and existing prior to the constitution of Bodoland Territorial Areas District, shall be maintained.]

333. Notwithstanding anything in article 170, the Governor ^{3***} 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, ⁴[nominate one member of that community to the Assembly].

Representation of the Anglo-Indian community in the Legislative Assemblies of the States.

334. Notwithstanding anything in the foregoing provisions of this Part, the provisions of this Constitution relating to—

(a) the reservation of seats for the Scheduled Castes and the Scheduled Tribes in the House of the People and in the Legislative Assemblies of the States; and

(b) the representation of the Anglo-Indian community in the House of the People and in the Legislative Assemblies of the States by nomination,

Reservation of seats and special representation to cease after ⁵[sixty years].

shall cease to have effect on the expiration of a period of ⁵[sixty years] from the commencement of this Constitution:

Provided that nothing in this article shall affect any representation in the House of the People or in the Legislative Assembly of a State until the dissolution of the then existing House or Assembly, as the case may be.

¹Certain words omitted by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71 (w.e.f. 21-1-1972).

²Ins. by the Constitution (Ninetieth Amendment) Act, 2003, s. 2.

³The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

⁴Subs. by the Constitution (Twenty-third Amendment) Act, 1969, s. 4, for "nominate such number of members of the community to the Assembly as he considers appropriate".

⁵Subs. by the Constitution (Seventy-ninth Amendment) Act, 1999, s. 2, for "fifty years" (w.e.f. 25-1-2000).

*(Part XVI.—Special Provisions relating to certain
Classes.—Arts. 335—337.)*

Claims of
Scheduled Castes
and Scheduled
Tribes to services
and posts.

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:

¹[Provided that nothing in this article shall prevent in making of any provision in favour of the members of the Scheduled Castes and the Scheduled Tribes for relaxation in qualifying marks in any examination or lowering the standards of evaluation, for reservation in matters of promotion to any class or classes of services or posts in connection with the affairs of the Union or of a State.]

Special provision
for Anglo-Indian
community in
certain services.

336. (1) During the first two years after the commencement of this Constitution, appointments of members of the Anglo-Indian community to posts in the railway, customs, postal and telegraph services of the Union shall be made on the same basis as immediately before the fifteenth day of August, 1947.

During every succeeding period of two years, the number of posts reserved for the members of the said community in the said services shall, as nearly as possible, be less by ten per cent. than the numbers so reserved during the immediately preceding period of two years:

Provided that at the end of ten years from the commencement of this Constitution all such reservations shall cease.

(2) Nothing in clause (1) shall bar the appointment of members of the Anglo-Indian community to posts other than, or in addition to, those reserved for the community under that clause if such members are found qualified for appointment on merit as compared with the members of other communities.

Special provision
with respect to
educational grants
for the benefit of
Anglo-Indian
community.

337. During the first three financial years after the commencement of this Constitution, the same grants, if any, shall be made by the Union and by each State ^{2***} for the benefit of the Anglo-Indian community in respect of education as were made in the financial year ending on the thirty-first day of March, 1948.

¹Ins. by the Constitution (Eighty-second Amendment) Act, 2000, s. 2.

²The 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 XVI.—*Special Provisions relating to certain Classes.*—Arts. 337-338.)

During every succeeding period of three years the grants may be less by ten per cent. than those for the immediately preceding period of three years :

Provided that at the end of ten years from the commencement of this Constitution such grants, to the extent to which they are a special concession to the Anglo-Indian community, shall cease:

Provided further that no educational institution shall be entitled to receive any grant under this article unless at least forty per cent. of the annual admissions therein are made available to members of communities other than the Anglo-Indian community.

338. ²[(1) There shall be a Commission for the Scheduled Castes to be known as the National Commission for the Scheduled Castes.

¹[National Commission for Scheduled Castes.]

(2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and three other Members and the conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members so appointed shall be such as the President may by rule determine.]

(3) The Chairperson, Vice-Chairperson and other Members of the Commission shall be appointed by the President by warrant under his hand and seal.

(4) The Commission shall have the power to regulate its own procedure.

(5) It shall be the duty of the Commission—

(a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes ^{3***} under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;

¹Subs. by the Constitution (Eighty-ninth Amendment) Act, 2003, s. 2, for the marginal heading (w.e.f. 19-2-2004).

²Subs. by s. 2, *ibid.*, for cls. (1) and (2) (w.e.f. 19-2-2004).

³The words "and Scheduled Tribes" omitted by s. 2, *ibid.* (w.e.f. 19-2-2004).

*(Part XVI.—Special Provisions relating to certain
Classes.—Art. 338.)*

(b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Castes ^{1***};

(c) to participate and advise on the planning process of socio-economic development of the Scheduled Castes ^{1***} and to evaluate the progress of their development under the Union and any State;

(d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;

(e) to make in such reports recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Castes ^{1***}; and

(f) to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Castes ^{1***} as the President may, subject to the provisions of any law made by Parliament, by rule specify.

(6) The President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.

(7) Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.

¹The words “and Scheduled Tribes” omitted by the Constitution (Eighty-ninth Amendment) Act, 2003, s. 2 (w.e.f. 19-2-2004).

(Part XVI.—*Special Provisions relating to certain Classes.*—Arts. 338-338A.)

(8) The Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (5), have all the powers of a civil court trying a suit and in particular in respect of the following matters, namely :—

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses and documents;

(f) any other matter which the President may, by rule, determine.

(9) The Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Castes ^{1***}.]

²[(10)] In this article, references to the Scheduled Castes ^{1***} 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.

³[338A. (1) There shall be a Commission for the Scheduled Tribes to be known as the National Commission for the Scheduled Tribes.

National
Commission for
Scheduled Tribes.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and three other Members and the conditions of service and tenure of office of the

¹The words “and Scheduled Tribes” omitted by the Constitution (Eighty-ninth Amendment) Act, 2003, s. 2 (w.e.f. 19-2-2004).

²Cl. (3) renumbered as cl. (10) by the Constitution (Sixty-fifth Amendment) Act, 1990, s. 2 (w.e.f. 12-3-1992).

³Ins. by the Constitution (Eighty-ninth Amendment) Act, 2003, s. 3 (w.e.f. 19-2-2004).

*(Part XVI.—Special Provisions relating to certain
Classes.—Art. 338A.)*

Chairperson, Vice-Chairperson and other Members so appointed shall be such as the President by rule determine.

(3) The Chairperson, Vice-Chairperson and other Members of the Commission shall be appointed by the President by warrant under his hand and seal.

(4) The Commission shall have the power to regulate its own procedure.

(5) It shall be the duty of the Commission—

(a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Tribes under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;

(b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Tribes;

(c) to participate and advise on the planning process of socio-economic development of the Scheduled Tribes and to evaluate the progress of their development under the Union and any State;

(d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;

(e) to make in such reports recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Tribes; and

(f) to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Tribes as the President may, subject to the provisions of any law made by Parliament, by rule specify.

(6) The President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed

(Part XVI.—*Special Provisions relating to certain Classes.*—Arts. 338A-339.)

to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.

(7) Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.

(8) The Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (5), have all the powers of a civil court trying a suit and in particular in respect of the following matters, namely: —

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses and documents;

(f) any other matter which the President may, by rule, determine.

(9) The Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Tribes.]

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 ^{1***}.

Control of the Union over the administration of Scheduled Areas and the welfare of Scheduled Tribes.

¹The 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.

(Part XVI.—*Special Provisions relating to certain
Classes.—Arts. 339—341.*)

The order may define the composition, powers and procedure of the Commission and may contain such incidental or ancillary provisions as the President may consider necessary or desirable.

(2) The executive power of the Union shall extend to the giving of directions to ¹[a State] as to the drawing up and execution of schemes specified in the direction to be essential for the welfare of the Scheduled Tribes in the State.

Appointment of a Commission to investigate the conditions of backward classes.

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.

(2) A Commission so appointed shall investigate the matters referred to them and present to the President a report setting out the facts as found by them and making such recommendations as they think proper.

(3) The President shall cause a copy of the report so presented together with a memorandum explaining the action taken thereon to be laid before each House of Parliament.

Scheduled Castes.

341. (1) The President ²[may with respect to any State ³[or Union territory], and where it is a State ^{4***}, after consultation with the Governor ^{5***} thereof,] by

¹Subs by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch., for “any such State”.

²Subs. by the Constitution (First Amendment) Act, 1951, s. 10, for “may, after consultation with the Governor or Rajpramukh of a State”.

³Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

⁴The words and letters “specified in Part A or Part B of the First Schedule” omitted by s. 29 and Sch., *ibid.*

⁵The words “or Rajpramukh” omitted by s. 29 and Sch., *ibid.*

(Part XVI.—*Special Provisions relating to certain Classes.*—Arts. 341-342.)

public notification¹, 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 State²[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 President³[may with respect to any State²[or Union territory], and where it is a State^{4***}, after consultation with the Governor^{5***} thereof,] by public notification⁶, 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 that State²[or Union territory, as the case may be].

Scheduled Tribes.

(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.

¹See the Constitution (Scheduled Castes) Order, 1950 (C.O. 19), the Constitution (Scheduled Castes) (Union Territories) Order, 1951 (C.O. 32), the Constitution (Jammu and Kashmir) Scheduled Castes Order, 1956 (C.O. 52), the Constitution (Dadra and Nagar Haveli) Scheduled Castes Order, 1962 (C.O. 64), the Constitution (Pondicherry) Scheduled Castes Order, 1964 (C.O. 68), the Constitution (Goa, Daman and Diu) Scheduled Castes Order, 1968 (C.O. 81) and the Constitution (Sikkim) Scheduled Castes Order, 1978 (C.O. 110).

²Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

³Subs. by the Constitution (First Amendment) Act, 1951, s. 11, for "may, after consultation with the Governor or Rajpramukh of a State,".

⁴The 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.

⁵The words "or Rajpramukh" omitted by s. 29 and Sch., *ibid*.

⁶See the Constitution (Scheduled Tribes) Order, 1950 (C.O. 22), the Constitution (Scheduled Tribes) (Union Territories) Order, 1951 (C.O. 33), the Constitution (Andaman and Nicobar Islands) Scheduled Tribes Order, 1959 (C.O. 58), the Constitution (Dadra and Nagar Haveli) Scheduled Tribes Order, 1962 (C.O. 65), the Constitution (Scheduled Tribes) (Uttar Pradesh) Order, 1967 (C.O. 78), the Constitution (Goa, Daman and Diu) Scheduled Tribes Order, 1968 (C.O. 82), the Constitution (Nagaland) Scheduled Tribes Order, 1970 (C.O. 88) and the Constitution (Sikkim) Scheduled Tribes Order, 1978 (C.O. 111).

PART XVII

OFFICIAL LANGUAGE

CHAPTER I.—LANGUAGE OF THE UNION

Official 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 order¹ 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.

Commission and
Committee of
Parliament on
official language.

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

¹See C.O. 41.

(Part XVII.—*Official Language*.—Art. 344.)

shall define the procedure to be followed by the Commission.

(2) It shall be the duty of the Commission to make recommendations to the President as to—

(a) the progressive use of the Hindi language for the official purposes of the Union;

(b) restrictions on the use of the English language for all or any of the official purposes of the Union;

(c) the language to be used for all or any of the purposes mentioned in article 348;

(d) the form of numerals to be used for any one or more specified purposes of the Union;

(e) any other matter referred to the Commission by the President as regards the official language of the Union and the language for communication between the Union and a State or between one State and another and their use.

(3) In making their recommendations under clause (2), the Commission shall have due regard to the industrial, cultural and scientific advancement of India, and the just claims and the interests of persons belonging to the non-Hindi speaking areas in regard to the public services.

(4) There shall be constituted a Committee consisting of thirty members, of whom twenty shall be members of the House of the People and ten shall be members of the Council of States to be elected respectively by the members of the House of the People and the members of the Council of States in accordance with the system of proportional representation by means of the single transferable vote.

(5) It shall be the duty of the Committee to examine the recommendations of the Commission constituted under clause (1) and to report to the President their opinion thereon.

(Part XVII.—*Official Language*.—Arts. 344—348.)

(6) Notwithstanding anything in article 343, the President may, after consideration of the report referred to in clause (5), issue directions in accordance with the whole or any part of that report.

CHAPTER II.—REGIONAL LANGUAGES

Official language or languages of a State.

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.

Official language for communication between one State and another or between a State and the Union.

346. The language for the time being authorised for use in the Union for official purposes shall be the official language for communication between one State and another State and between a State and the Union:

Provided that if two or more States agree that the Hindi language should be the official language for communication between such States, that language may be used for such communication.

Special provision relating to language spoken by a section of the population of a State.

347. On a demand being made in that behalf the President may, if he is satisfied that a substantial proportion of the population of a State desire the use of any language spoken by them to be recognised by that State, direct that such language shall also be officially recognised throughout that State or any part thereof for such purpose as he may specify.

CHAPTER III.—LANGUAGE OF THE SUPREME COURT, HIGH COURTS, ETC.

Language to be used in the Supreme Court and in the High Courts and for Acts, Bills, etc.

348. (1) Notwithstanding anything in the foregoing provisions of this Part, until Parliament by law otherwise provides—

(a) all proceedings in the Supreme Court and in every High Court,

(Part XVII.—*Official Language*.—Art. 348.)

(b) the authoritative texts—

(i) of all Bills to be introduced or amendments thereto to be moved in either House of Parliament or in the House or either House of the Legislature of a State,

(ii) of all Acts passed by Parliament or the Legislature of a State and of all Ordinances promulgated by the President or the Governor ^{1***} of a State, and

(iii) of all orders, rules, regulations and bye-laws issued under this Constitution or under any law made by Parliament or the Legislature of a State,

shall be in the English language.

(2) Notwithstanding anything in sub-clause (a) of clause (1), the Governor ^{1***} of a State may, with the previous consent of the President, authorise the use of the Hindi language, or any other language used for any official purposes of the State, in proceedings in the High Court having its principal seat in that State:

Provided that nothing in this clause shall apply to any judgment, decree or order passed or made by such High Court.

(3) Notwithstanding anything in sub-clause (b) of clause (1), where the Legislature of a State has prescribed any language other than the English language for use in Bills introduced in, or Acts passed by, the Legislature of the State or in Ordinances promulgated by the Governor ^{1***} of the State or in any order, rule, regulation or bye-law referred to in paragraph (iii) of that sub-clause, a translation of the same in the English language published under the authority of the Governor ^{1***} of the State in the Official Gazette of that State shall be deemed to be the authoritative text thereof in the English language under this article.

¹The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

(Part XVII.—Official Language.—Arts. 349—351.)

Special procedure for enactment of certain laws relating to language.

349. During the period of fifteen years from the commencement of this Constitution, no Bill or amendment making provision for the language to be used for any of the purposes mentioned in clause (1) of article 348 shall be introduced or moved in either House of Parliament without the previous sanction of the President, and the President shall not give his sanction to the introduction of any such Bill or the moving of any such amendment except after he has taken into consideration the recommendations of the Commission constituted under clause (1) of article 344 and the report of the Committee constituted under clause (4) of that article.

CHAPTER IV.—SPECIAL DIRECTIVES

Language to be used in representations for redress of grievances.

350. Every person shall be entitled to submit a representation for the redress of any grievance to any officer or authority of the Union or a State in any of the languages used in the Union or in the State, as the case may be.

Facilities for instruction in mother-tongue at primary stage.

¹[**350A.** It shall be the endeavour of every State and of every local authority within the State to provide adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups; and the President may issue such directions to any State as he considers necessary or proper for securing the provision of such facilities.

Special Officer for linguistic minorities.

350B. (1) There shall be a Special Officer for linguistic minorities to be appointed by the President.

(2) It shall be the duty of the Special Officer to investigate all matters relating to the safeguards provided for linguistic minorities under this Constitution and report to the President upon those matters at such intervals as the President may direct, and the President shall cause all such reports to be laid before each House of Parliament, and sent to the Governments of the States concerned.]

Directive for development of the Hindi language.

351. It shall be the duty of the Union to promote the spread of the Hindi language, to develop it so that it may

¹Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 21.

(Part XVII.—*Official Language*.—Art. 351.)

serve as a medium of expression for all the elements of the composite culture of India and to secure its enrichment by assimilating without interfering with its genius, the forms, style and expressions used in Hindustani and in the other languages of India specified in the Eighth Schedule, and by drawing, wherever necessary or desirable, for its vocabulary, primarily on Sanskrit and secondarily on other languages.

PART XVIII

EMERGENCY PROVISIONS

Proclamation of
Emergency.

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 ¹[armed rebellion], he may, by Proclamation, make a declaration to that effect ²[in respect of the whole of India or of such part of the territory thereof as may be specified in the Proclamation].

³[*Explanation.*—A Proclamation of Emergency declaring that the security of India or any part of the territory thereof is threatened by war or by external aggression or by armed rebellion may be made before the actual occurrence of war or of any such aggression or rebellion, if the President is satisfied that there is imminent danger thereof.]

⁴[(2) A Proclamation issued under clause (1) may be varied or revoked by a subsequent Proclamation.

(3) The President shall not issue a Proclamation under clause (1) or a Proclamation varying such Proclamation unless the decision of the Union Cabinet (that is to say, the Council consisting of the Prime Minister and other Ministers of Cabinet rank appointed under article 75) that such a Proclamation may be issued has been communicated to him in writing.

(4) Every Proclamation issued under this article shall be laid before each House of Parliament and shall, except where it is a Proclamation revoking a previous Proclamation, cease to operate at the expiration of one month unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament:

¹Subs by the Constitution (Forty-fourth Amendment) Act, 1978, s. 37, for “internal disturbance” (w.e.f. 20-6-1979).

²Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 48 (w.e.f. 3-1-1977).

³Ins. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 37 (w.e.f. 20-6-1979).

⁴ Subs. by s. 37, *ibid.*, for cls. (2), (2A) and (3) (w.e.f. 20-6-1979).

(Part XVIII.—Emergency Provisions.—Art. 352.)

Provided that if any such Proclamation (not being a Proclamation revoking a previous 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 one month referred to in this clause, 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.

(5) A Proclamation so approved shall, unless revoked, cease to operate on the expiration of a period of six months from the date of the passing of the second of the resolutions approving the Proclamation under clause (4):

Provided that if and so often as a resolution approving the continuance in force of such a Proclamation is passed by both Houses of Parliament the Proclamation shall, unless revoked, continue in force for a further period of six months from the date on which it would otherwise have ceased to operate under this clause:

Provided further that if the dissolution of the House of the People takes place during any such period of six months and a resolution approving the continuance in force of such Proclamation has been passed by the Council of States but no resolution with respect to the continuance in force of such Proclamation has been passed by the House of the People during the said 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 continuance in force of the Proclamation has been also passed by the House of the People.

(Part XVIII.—Emergency Provisions.—Art. 352.)

(6) For the purposes of clauses (4) and (5), a resolution may be passed by either House of Parliament only 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.

(7) Notwithstanding anything contained in the foregoing clauses, the President shall revoke a Proclamation issued under clause (1) or a Proclamation varying such Proclamation if the House of the People passes a resolution disapproving, or, as the case may be, disapproving the continuance in force of, such Proclamation.

(8) Where a notice in writing signed by not less than one-tenth of the total number of members of the House of the People has been given, of their intention to move a resolution for disapproving, or, as the case may be, for disapproving the continuance in force of, a Proclamation issued under clause (1) or a Proclamation varying such Proclamation,—

(a) to the Speaker, if the House is in session; or

(b) to the President, if the House is not in session,

a special sitting of the House shall be held within fourteen days from the date on which such notice is received by the Speaker, or, as the case may be, by the President, for the purpose of considering such resolution.]

¹[²(9)] The power conferred on the President by this article shall include the power to issue different Proclamations on different grounds, being war or external aggression or ³[armed rebellion] or imminent danger of war or external aggression or ³[armed rebellion], whether or not there is a Proclamation already issued by the President under clause (1) and such Proclamation is in operation.

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¹Ins. by the Constitution (Thirty-eighth Amendment) Act, 1975, s. 5 (retrospectively).

²Cl. (4) re-numbered as cl. (9) by the Constitution (Forty-fourth Amendment) Act, 1978, s. 37 (w.e.f 20-6-1979).

³Subs. by s. 37, *ibid.*, for “internal disturbance” (w.e.f 20-6-1979).

⁴Cl. (5) omitted by s. 37, *ibid.* (w.e.f. 20-6-1979).

(Part XVIII.—Emergency Provisions.—Arts. 353-354.)

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

Effect of
Proclamation of
Emergency.

(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:

¹[Provided that where a Proclamation of Emergency is in operation only in any part of the territory of India,—

(i) the executive power of the Union to give directions under clause (a), and

(ii) the power of Parliament to make laws under clause (b),

shall also extend to any State other than a State in which or in any part of which the Proclamation of Emergency is in operation if and in so far as the security of India or any part of the territory thereof is threatened by activities in or in relation to the part of the territory of India in which the Proclamation of Emergency is in operation.]

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.

Application of
provisions relating
to distribution of
revenues while a
Proclamation of
Emergency is in
operation.

¹Ins. by the Constitution (Forty-second Amendment) Act 1976, s. 49 (w.e.f. 3-1-1977).

(Part XVIII.—Emergency Provisions.—Arts. 354—356.)

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

Duty of the Union to protect States against external aggression and internal disturbance.

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.

Provisions in case of failure of constitutional machinery in States.

356. (1) If the President, on receipt of a report from the Governor ^{1***} 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 ^{2***} 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 the President 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:

Provided that nothing in this clause shall authorise the President to assume to himself any of the powers vested in or exercisable by a High Court, or to suspend in whole or in part the operation of any provision of this Constitution relating to High Courts.

¹The words “or Rajpramukh” omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

²The words “or Rajpramukh, as the case may be” omitted by s. 29 and Sch., *ibid.*

(Part XVIII.—Emergency Provisions.—Art. 356.)

(2) Any such Proclamation may be revoked or varied by a subsequent Proclamation.

(3) Every Proclamation under this article shall be laid before each House of Parliament and shall, except where it is a Proclamation revoking a previous Proclamation, 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 (not being a Proclamation revoking a previous Proclamation) is issued at a time when the House of the People is dissolved or the dissolution of the House of the People takes place during the period of two months referred to in this clause, 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.

(4) A Proclamation so approved shall, unless revoked, cease to operate on the expiration of a period of ¹[six months from the date of issue of the Proclamation]:

Provided that if and so often as a resolution approving the continuance in force of such a Proclamation is passed by both Houses of Parliament, the Proclamation shall, unless revoked, continue in force for a further period of ²[six months] from the date on which under this clause it

¹Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 38, for "one year from the date of the passing of the second of the resolutions approving the Proclamation under clause (3)" (w.e.f. 20-6-1979). The words "one year" were subs. for the original words "six months" by the Constitution (Forty-second Amendment) Act, 1976, s. 50 (w.e.f. 3-1-1977).

²Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 38, for "one year" (w.e.f. 20-6-1979). The words "one year" were subs. for the original words "six months" by the Constitution (Forty-second Amendment) Act, 1976, s. 50 (w.e.f. 3-1-1977).

(Part XVIII.—Emergency Provisions.—Art. 356.)

would otherwise have ceased to operate, but no such Proclamation shall in any case remain in force for more than three years:

Provided further that if the dissolution of the House of the People takes place during any such period of ¹[six months] and a resolution approving the continuance in force of such Proclamation has been passed by the Council of States, but no resolution with respect to the continuance in force of such Proclamation has been passed by the House of the People during the said 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 continuance in force of the Proclamation has been also passed by the House of the People:

²[Provided also that in the case of the Proclamation issued under clause (1) on the 11th day of May, 1987 with respect to the State of Punjab, the reference in the first proviso to this clause to “three years” shall be construed as a reference to ³[five years].]

⁴[(5) Notwithstanding anything contained in clause (4), a resolution with respect to the continuance in force of a Proclamation approved under clause (3) for any period beyond the expiration of one year from the date of issue of such Proclamation shall not be passed by either House of Parliament unless—

(a) a Proclamation of Emergency is in operation, in the whole of India or, as the case may be, in the whole or any part of the State, at the time of the passing of such resolution, and

¹Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 38, for “one year” (w.e.f. 20-6-1979). The words “one year” were subs. for the original words “six months” by the Constitution (Forty-second Amendment) Act, 1976, s. 50 (w.e.f. 3-1-1977).

²Ins. by the Constitution (Sixty-fourth Amendment) Act, 1990, s. 2.

³Successively subs. by the Constitution (Sixty-seventh Amendment) Act, 1990, s. 2 and the Constitution (Sixty-eighth Amendment) Act, 1991, s. 2 to read as above.

⁴Subs by the Constitution (Forty-fourth Amendment) Act, 1978, s. 38, for cl. (5) (w.e.f. 20-6-1979). Cl. (5) was ins. by the Constitution (Thirty-eighth Amendment) Act, 1975, s. 6 (retrospectively).

(Part XVIII.—Emergency Provisions.—Arts. 356-357.)

(b) the Election Commission certifies that the continuance in force of the Proclamation approved under clause (3) during the period specified in such resolution is necessary on account of difficulties in holding general elections to the Legislative Assembly of the State concerned:]

¹[Provided that nothing in this clause shall apply to the Proclamation issued under clause (1) on the 11th day of May, 1987 with respect to the State of Punjab.]

357. (1) Where by a Proclamation issued under clause (1) of article 356, it has been declared that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament, it shall be competent—

Exercise of legislative powers under Proclamation issued under article 356.

(a) for Parliament to confer on the President the power of the Legislature of the State to make laws, and to authorise the President to delegate, subject to such conditions as he may think fit to impose, the power so conferred to any other authority to be specified by him in that behalf;

(b) for Parliament, or for the President or other authority in whom such power to make laws is vested under sub-clause (a), 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 thereof;

(c) for the President to authorise when the House of the People is not in session expenditure from the Consolidated Fund of the State pending the sanction of such expenditure by Parliament.

⁵[(2) Any law made in exercise of the power of the Legislature of the State by Parliament or the President or other authority referred to in sub-clause (a) of clause (1)

¹Omitted by the Constitution (Sixty-third Amendment) Act, 1989, s. 2 (w.e.f. 6-1-1990). Ins. by the Constitution (Sixty-fourth Amendment) Act, 1990, s. 2.

²Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 51, for cl. (2) (w.e.f. 3-1-1977).

(Part XVIII.—Emergency Provisions.—Arts. 357-358.)

which Parliament or the President or such other authority would not, but for the issue of a Proclamation under article 356, have been competent to make shall, after the Proclamation has ceased to operate, continue in force until altered or repealed or amended by a competent Legislature or other authority.]

Suspension of provisions of article 19 during emergencies.

358. ¹[(1)] ²[While a Proclamation of Emergency declaring that the security of India or any part of the territory thereof is threatened by war or by external aggression is in operation], nothing in article 19 shall restrict the power of the State as defined in Part III to make any law or to take any executive action which the State would but for the provisions contained in that Part be competent to make or to take, but any law so made shall, to the extent of the incompetency, cease to have effect as soon as the Proclamation ceases to operate, except as respects things done or omitted to be done before the law so ceases to have effect:

³[Provided that ⁴[where such Proclamation of Emergency] is in operation only in any part of the territory of India, any such law may be made, or any such executive action may be taken, under this article in relation to or in any State or Union territory in which or in any part of which the Proclamation of Emergency is not in operation, if and in so far as the security of India or any part of the territory thereof is threatened by activities in or in relation to the part of the territory of India in which the Proclamation of Emergency is in operation.]

⁵[(2) Nothing in clause (1) shall apply—

(a) to any law which does not contain a recital to the effect that such law is in relation to the

¹Art. 358 re-numbered as cl. (1) thereof by the Constitution (Forty-fourth Amendment) Act, 1978, s. 39 (w.e.f. 20-6-1979).

²Subs. by s. 39, *ibid.*, for “While a Proclamation of Emergency is in operation” (w.e.f. 20-6-1979).

³Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 52 (w.e.f. 3-1-1977).

⁴Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 39, for “where a Proclamation of Emergency” (w.e.f. 20-6-1979).

⁵Ins. by s. 39, *ibid.* (w.e.f. 20-6-1979).

(Part XVIII.—Emergency Provisions.—Arts. 358-359.)

Proclamation of Emergency in operation when it is made; or

(b) to any executive action taken otherwise than under a law containing such a recital.]

359. (1) Where a Proclamation of Emergency is in operation, the President may by order declare that the right to move any court for the enforcement of such of ¹[the rights conferred by Part III (except articles 20 and 21)] as may be mentioned in the order and all proceedings pending in any court for the enforcement of the rights so mentioned shall remain suspended for the period during which the Proclamation is in force or for such shorter period as may be specified in the order.

Suspension of the enforcement of the rights conferred by Part III during emergencies.

²[(1A) While an order made under clause (1) mentioning any of ¹[the rights conferred by Part III (except articles 20 and 21)] is in operation, nothing in that Part conferring those rights shall restrict the power of the State as defined in the said Part to make any law or to take any executive action which the State would but for the provisions contained in that Part be competent to make or to take, but any law so made shall, to the extent of the incompetency, cease to have effect as soon as the order aforesaid ceases to operate, except as respects things done or omitted to be done before the law so ceases to have effect:]

³[Provided that where a Proclamation of Emergency is in operation only in any part of the territory of India, any such law may be made, or any such executive action may be taken, under this article in relation to or in any State or Union territory in which or in any part of which the Proclamation of Emergency is not in operation, if and in so far as the security of India or any part of the territory thereof is threatened by activities in or in relation to the part of the territory of India in which the Proclamation of Emergency is in operation.]

¹Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 40, for "the rights conferred by Part III" (w.e.f. 20-6-1979).

²Ins. by the Constitution (Thirty-eighth Amendment) Act, 1975, s. 7 (retrospectively).

³Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 53 (w.e.f. 3-1-1977).

(Part XVIII.—Emergency Provisions.—Arts. 359—360.)

¹[(1B) Nothing in clause (1A) shall apply—

(a) to any law which does not contain a recital to the effect that such law is in relation to the Proclamation of Emergency in operation when it is made; or

(b) to any executive action taken otherwise than under a law containing such a recital.]

(2) An order made as aforesaid may extend to the whole or any part of the territory of India:

²[Provided that where a Proclamation of Emergency is in operation only in a part of the territory of India, any such order shall not extend to any other part of the territory of India unless the President, being satisfied that the security of India or any part of the territory thereof is threatened by activities in or in relation to the part of the territory of India in which the Proclamation of Emergency is in operation, considers such extension to be necessary.]

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

³**359A.** [*Application of this Part to the State of Punjab.*] *Rep. by the Constitution (Sixty-third Amendment) Act, 1989, s. 3 (w.e.f. 6-1-1990).*

Provisions as to
financial
emergency.

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.

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

(a) may be revoked or varied by a subsequent Proclamation;

¹Ins. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 40 (w.e.f. 20-6-1979).

²Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 53 (w.e.f. 3-1-1977).

³Ins. by the Constitution (Fifty-ninth Amendment) Act, 1988, s. 3. It shall cease to operate on the expiry of a period of two years from the commencement of this Act, *i.e.*, thirtieth day of March, 1988.

⁴Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 41, for cl. (2) (w.e.f. 20-6-1979).

(Part XVIII.—*Emergency Provisions.*—Art. 360.)

(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) During the period any such Proclamation as is mentioned in clause (1) is in operation, the executive authority of the Union shall extend to the giving of directions to any State to observe such canons of financial propriety as may be specified in the directions, and to the giving of such other directions as the President may deem necessary and adequate for the purpose.

(4) Notwithstanding anything in this Constitution—

(a) any such direction may include—

(i) a provision requiring the reduction of salaries and allowances of all or any class of persons serving in connection with the affairs of a State;

(ii) a provision requiring all Money Bills or other Bills to which the provisions of article 207 apply to be reserved for the consideration of the President after they are passed by the Legislature of the State;

(Part XVIII.—Emergency Provisions.—Art. 360.)

(b) it shall be competent for the President during the period any Proclamation issued under this article is in operation to issue directions for the reduction of salaries and allowances of all or any class of persons serving in connection with the affairs of the Union including the Judges of the Supreme Court and the High Courts.

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¹Cl. (5) was ins. by the Constitution (Thirty-eighth Amendment) Act, 1975, s. 8 (retrospectively) and omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 41 (w.e.f. 20-6-1979).

PART XIX

MISCELLANEOUS

361. (1) The President, or the Governor or Rajpramukh of a State, shall not be answerable to any court for the exercise and performance of the powers and duties of his office or for any act done or purporting to be done by him in the exercise and performance of those powers and duties:

Protection of
President and
Governors and
Rajpramukhs.

Provided that the conduct of the President may be brought under review by any court, tribunal or body appointed or designated by either House of Parliament for the investigation of a charge under article 61:

Provided further that nothing in this clause shall be construed as restricting the right of any person to bring appropriate proceedings against the Government of India or the Government of a State.

(2) No criminal proceedings whatsoever shall be instituted or continued against the President, or the Governor ^{1***} of a State, in any court during his term of office.

(3) No process for the arrest or imprisonment of the President, or the Governor ^{1***} of a State, shall issue from any court during his term of office.

(4) No civil proceedings in which relief is claimed against the President, or the Governor ^{1***} of a State, shall be instituted during his term of office in any court in respect of any act done or purporting to be done by him in his personal capacity, whether before or after he entered upon his office as President, or as Governor ^{1***} of such State, until the expiration of two months next after notice in writing has been delivered to the President or the Governor ^{2***}, as the case may be, or left at his office stating the nature of the proceedings, the cause of action therefor, the name, description and place of

¹The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

²The words "or the Rajpramukh" omitted by s. 29 and Sch., *ibid*.

(Part XIX.—Miscellaneous.—Arts. 361—361B.)

residence of the party by whom such proceedings are to be instituted and the relief which he claims.

Protection of
publication of
proceedings of
Parliament and
State Legislatures.

¹[**361A.** (1) No person shall be liable to any proceedings, civil or criminal, in any court in respect of the publication in a newspaper of a substantially true report of any proceedings of either House of Parliament or the Legislative Assembly, or, as the case may be, either House of the Legislature, of a State, unless the publication is proved to have been made with malice:

Provided that nothing in this clause shall apply to the publication of any report of the proceedings of a secret sitting of either House of Parliament or the Legislative Assembly, or, as the case may be, either House of the Legislature, of a State.

(2) Clause (1) shall apply in relation to reports or matters broadcast by means of wireless telegraphy as part of any programme or service provided by means of a broadcasting station as it applies in relation to reports or matters published in a newspaper.

Explanation.—In this article, “newspaper” includes a news agency report containing material for publication in a newspaper.]

Disqualification
for appointment
on remunerative
political post.

²[**361B.** A member of a House belonging to any political party who is disqualified for being a member of the House under paragraph 2 of the Tenth Schedule shall also be disqualified to hold any remunerative political post for duration of the period commencing from the date of his disqualification till the date on which the term of his office as such member would expire or till the date on which he contests an election to a House and is declared elected, whichever is earlier.

Explanation.—For the purposes of this article,—

(a) the expression “House” has the meaning assigned to it in clause (a) of paragraph 1 of the Tenth Schedule;

¹Ins. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 42 (w.e.f. 20-6-1979).

²Ins. by the Constitution (Ninety-first Amendment) Act, 2003, s. 4.

(Part XIX.—Miscellaneous.—Arts. 361B—363.)

(b) the expression “remunerative political post” means any office—

(i) under the Government of India or the Government of a State where the salary or remuneration for such office is paid out of the public revenue of the Government of India or the Government of the State, as the case may be; or

(ii) under a body, whether incorporated or not, which is wholly or partially owned by the Government of India or the Government of a State and the salary or remuneration for such office is paid by such body,

except where such salary or remuneration paid is compensatory in nature.

362. [*Rights and privileges of Rulers of Indian States.*] Rep. by the Constitution (Twenty-sixth Amendment) Act, 1971, s. 2.

363. (1) Notwithstanding anything in this Constitution but subject to the provisions of article 143, neither the Supreme Court nor any other court shall have jurisdiction in any dispute arising out of any provision of a treaty, agreement, covenant, engagement, *sanad* or other similar instrument which was entered into or executed before the commencement of this Constitution by any Ruler of an Indian State and to which the Government of the Dominion of India or any of its predecessor Governments was a party and which has or has been continued in operation after such commencement, or in any dispute in respect of any right accruing under or any liability or obligation arising out of any of the provisions of this Constitution relating to any such treaty, agreement, covenant, engagement, *sanad* or other similar instrument.

Bar to interference by courts in disputes arising out of certain treaties, agreements, etc.

(2) In this article—

(a) “Indian State” means any territory recognised before the commencement of this Constitution by His Majesty or the Government of the Dominion of India as being such a State; and

(b) “Ruler” includes the Prince, Chief or other person recognised before such commencement by His Majesty or the Government of the Dominion of India as the Ruler of any Indian State.

(Part XIX.—Miscellaneous.—Arts. 363A-364.)

Recognition
granted to Rulers
of Indian States
to cease and
privy purses to
be abolished.

¹[**363A.** Notwithstanding anything in this Constitution or in any law for the time being in force—

(a) the Prince, Chief or other person who, at any time before the commencement of the Constitution (Twenty-sixth Amendment) Act, 1971, was recognised by the President as the Ruler of an Indian State or any person who, at any time before such commencement, was recognised by the President as the successor of such ruler shall, on and from such commencement, cease to be recognised as such Ruler or the successor of such Ruler;

(b) on and from the commencement of the Constitution (Twenty-sixth Amendment) Act, 1971, privy purse is abolished and all rights, liabilities and obligations in respect of privy purse are extinguished and accordingly the Ruler or, as the case may be, the successor of such Ruler, referred to in clause (a) or any other person shall not be paid any sum as privy purse.]

Special provisions
as to major ports
and aerodromes.

364. (1) Notwithstanding anything in this Constitution, the President may by public notification direct that as from such date as may be specified in the notification—

(a) any law made by Parliament or by the Legislature of a State shall not apply to any major port or aerodrome or shall apply thereto subject to such exceptions or modifications as may be specified in the notification, or

(b) any existing law shall cease to have effect in any major port or aerodrome except as respects things done or omitted to be done before the said date, or shall in its application to such port or aerodrome have effect subject to such exceptions or modifications as may be specified in the notification.

(2) In this article—

(a) “major port” means a port declared to be a major port by or under any law made by Parliament or any existing law and includes all areas for the time being included within the limits of such port;

(b) “aerodrome” means aerodrome as defined for the purposes of the enactments relating to airways, aircraft and air navigation.

¹Ins. by the Constitution (Twenty-sixth Amendment) Act, 1971, s. 3.

(Part XIX.—Miscellaneous.—Arts. 365-366.)

365. Where any State has failed to comply with, or to give effect to, any directions given in the exercise of the executive power of the Union under any of the provisions of this Constitution, it shall be lawful for the President to hold that a situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of this Constitution.

Effect of failure to comply with, or to give effect to, directions given by the Union.

366. In this Constitution, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

Definitions.

(1) “agricultural income” means agricultural income as defined for the purposes of the enactments relating to Indian income-tax;

(2) “an Anglo-Indian” means a person whose father or any of whose other male progenitors in the male line is or was of European descent but who is domiciled within the territory of India and is or was born within such territory of parents habitually resident therein and not established there for temporary purposes only;

(3) “article” means an article of this Constitution;

(4) “borrow” includes the raising of money by the grant of annuities, and “loan” shall be construed accordingly;

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(5) “clause” means a clause of the article in which the expression occurs;

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

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

(b) that no deduction in respect of the tax paid by companies is, by any enactments which may apply to the tax, authorised to be made from dividends payable by the companies to individuals;

(c) that no provision exists for taking the tax so paid into account in computing for the

¹Cl. (4A) was ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 54 (w.e.f. 1-2-1977) and omitted by the Constitution (Forty-third Amendment) Act, 1977, s. 11 (w.e.f. 13-4-1978).

(Part XIX.—Miscellaneous.—Art. 366.)

purposes of Indian income-tax the total income of individuals receiving such dividends, or in computing the Indian income-tax payable by, or refundable to, such individuals;

(7) “corresponding Province”, “corresponding Indian State” or “corresponding State” means in cases of doubt such Province, Indian State or State as may be determined by the President to be the corresponding Province, the corresponding Indian State or the corresponding State, as the case may be, for the particular purpose in question;

(8) “debt” includes any liability in respect of any obligation to repay capital sums by way of annuities and any liability under any guarantee, and “debt charges” shall be construed accordingly;

(9) “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 laws made by Parliament or the Legislature of a State relating to the duty, of all property passing upon death or deemed, under the provisions of the said laws, so to pass;

(10) “existing law” means any law, Ordinance, order, bye-law, rule or regulation passed or made before the commencement of this Constitution by any Legislature, authority or person having power to make such a law, Ordinance, order, bye-law, rule or regulation;

(11) “Federal Court” means the Federal Court constituted under the Government of India Act, 1935;

(12) “goods” includes all materials, commodities, and articles;

(13) “guarantee” includes any obligation undertaken before the commencement of this Constitution to make payments in the event of the profits of an undertaking falling short of a specified amount;

(14) “High Court” means any Court which is deemed for the purposes of this Constitution to be a High Court for any State and includes—

(a) any Court in the territory of India constituted or reconstituted under this Constitution as a High Court, and

(Part XIX.—Miscellaneous.—Art. 366.)

(b) any other Court in the territory of India which may be declared by Parliament by law to be a High Court for all or any of the purposes of this Constitution;

(15) “Indian State” means any territory which the Government of the Dominion of India recognised as such a State;

(16) “Part” means a Part of this Constitution;

(17) “pension” means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of any person, and includes retired pay so payable; a gratuity so payable and any sum or sums so payable by way of the return, with or without interest thereon or any other addition thereto, of subscriptions to a provident fund;

(18) “Proclamation of Emergency” means a Proclamation issued under clause (1) of article 352;

(19) “public notification” means a notification in the Gazette of India, or, as the case may be, the Official Gazette of a State;

(20) “railway” does not include—

(a) a tramway wholly within a municipal area, or

(b) any other line of communication wholly situate in one State and declared by Parliament by law not to be a railway;

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²[(22) “Ruler” means the Prince, Chief or other person who, at any time before the commencement of the Constitution (Twenty-sixth Amendment) Act, 1971, was recognised by the President as the Ruler of an Indian State or any person who, at any time before such commencement, was recognised by the President as the successor of such Ruler;]

(23) “Schedule” means a Schedule to this Constitution;

(24) “Scheduled Castes” means such castes, races or tribes or parts of or groups within such castes,

¹Cl. (21) omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

²Subs. by the Constitution (Twenty-sixth Amendment) Act, 1971, s. 4, for cl. (22).

(Part XIX.—Miscellaneous.—Art. 366.)

rac¹es or tribes as are deemed under article 341 to be Scheduled Castes for the purposes of this Constitution;

(25) "Scheduled Tribes" means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under article 342 to be Scheduled Tribes for the purposes of this Constitution;

(26) "securities" includes stock;

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(27) "sub-clause" means a sub-clause of the clause in which the expression occurs;

(28) "taxation" includes the imposition of any tax or impost, whether general or local or special, and "tax" shall be construed accordingly;

(29) "tax on income" includes a tax in the nature of an excess profits tax;

²[(29A) "tax on the sale or purchase of goods" includes—

(a) a tax on the transfer, otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment or other valuable consideration;

(b) a tax on the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;

(c) a tax on the delivery of goods on hire-purchase or any system of payment by instalments;

(d) a tax on the transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;

(e) a tax on the supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration;

¹Cl. (26A) was ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 54 (w.e.f. 1-2-1977) and omitted by the Constitution (Forty-third Amendment) Act, 1977, s. 11 (w.e.f. 13-4-1978).

²Ins. by the Constitution (Forty-sixth Amendment) Act, 1982, s. 4.

(Part XIX.—Miscellaneous.—Arts. 366-367.)

(f) a tax on the supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating), where such supply or service, is for cash, deferred payment or other valuable consideration,

and such transfer, delivery or supply of any goods shall be deemed to be a sale of those goods by the person making the transfer, delivery or supply and a purchase of those goods by the person to whom such transfer, delivery or supply is made;]

¹[(30) "Union territory" means any Union territory specified in the First Schedule and includes any other territory comprised within the territory of India but not specified in that Schedule.]

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.

Interpretation.

(2) Any reference in this Constitution to Acts or laws of, or made by, Parliament, or to Acts or laws of, or made by, the Legislature of a State ^{2***}, shall be construed as including a reference to an Ordinance made by the President or, to an Ordinance made by a Governor ^{3***}, as the case may be.

(3) For the purposes of this Constitution "foreign State" means any State other than India:

Provided that, subject to the provisions of any law made by Parliament, the President may by order⁴ declare any State not to be a foreign State for such purposes as may be specified in the order.

¹Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch., for cl. (30).

²The words and letters "specified in Part A or Part B of the First Schedule" omitted by s. 29 and Sch., *ibid.*

³The words "or Rajpramukh" omitted by s. 29 and Sch., *ibid.*

⁴See the Constitution (Declaration as to Foreign States) Order, 1950 (C.O. 2).

PART XX

AMENDMENT OF THE CONSTITUTION

¹[Power of Parliament to amend the Constitution and procedure therefor.]

368. ²[(1) Notwithstanding anything in this Constitution, Parliament may in exercise of its constituent power amend by way of addition, variation or repeal any provision of this Constitution in accordance with the procedure laid down in this article.]

³[(2)] 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, ⁴[it shall be presented to the President who shall give his assent to the Bill and thereupon] 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 ^{5***} by resolutions to that effect passed by those Legislatures

¹Subs. by the Constitution (Twenty-fourth Amendment) Act, 1971, s. 3, for “Procedure for the amendment of the Constitution”.

²Ins. by s. 3, *ibid.*

³Art. 368 renumbered as cl. (2) thereof by s. 3, *ibid.*

⁴Subs. by s. 3, *ibid.*, for “it shall be presented to the President for his assent and upon such assent being given to the Bill,”.

⁵The 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.

(Part XX.—Amendment of the Constitution.—Art. 368.)

before the Bill making provision for such amendment is presented to the President for assent.

¹[(3) Nothing in article 13 shall apply to any amendment made under this article.]

²[(4) No amendment of this Constitution (including the provisions of Part III) made or purporting to have been made under this article [whether before or after the commencement of section 55 of the Constitution (Forty-second Amendment) Act, 1976] shall be called in question in any court on any ground.

(5) For the removal of doubts, it is hereby declared that there shall be no limitation whatever on the constituent power of Parliament to amend by way of addition, variation or repeal the provisions of this Constitution under this article.]

¹Ins. by the Constitution (Twenty-fourth Amendment) Act, 1971, s. 3.

²Cls. (4) and (5) were ins. in article 368 by s. 55 of the Constitution (Forty-second Amendment) Act, 1976. This section has been declared invalid by the Supreme Court in *Minerva Mills Ltd. and Others Vs. Union of India and Others* (1980) 2 S.C.C. 591.

PART XXI

¹[TEMPORARY, TRANSITIONAL AND SPECIAL PROVISIONS]

Temporary power to Parliament to make laws with respect to certain matters in the State List as if they were matters in the Concurrent List.

369. Notwithstanding anything in this Constitution, Parliament shall, during a period of five years from the commencement of this Constitution, have power to make laws with respect to the following matters as if they were enumerated in the Concurrent List, namely:—

(a) trade and commerce within a State in, and the production, supply and distribution of, cotton and woollen textiles, raw cotton (including ginned cotton and unginned cotton or *kapas*), cotton seed, paper (including newsprint), food-stuffs (including edible oilseeds and oil), cattle fodder (including oil-cakes and other concentrates), coal (including coke and derivatives of coal), iron, steel and mica;

(b) offences against laws with respect to any of the matters mentioned in clause (a), jurisdiction and powers of all courts except the Supreme 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 Parliament, which Parliament would not but for the provisions of this article 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.

¹Subs. by the Constitution (Thirteenth Amendment) Act, 1962, s. 2, for “TEMPORARY AND TRANSITIONAL PROVISIONS” (w.e.f. 1-12-1963).

(Part XXI.—*Temporary, Transitional and Special Provisions.*—Art. 370.)

¹[370. (1) Notwithstanding anything in this Constitution,—

(a) the provisions of article 238 shall not apply in relation to the State of Jammu and Kashmir;

(b) the power of Parliament to make laws for the said State shall be limited to—

(i) those matters in the Union List and the Concurrent List which, in consultation with the Government of the State, are declared by the President to correspond to matters specified in the Instrument of Accession governing the accession of the State to the Dominion of India as the matters with respect to which the Dominion Legislature may make laws for that State; and

(ii) such other matters in the said Lists as, with the concurrence of the Government of the State, the President may by order specify.

Explanation.—For the purposes of this article, the Government of the State means the person for the time being recognised by the President as the Maharaja of Jammu and Kashmir acting on the advice of the Council of Ministers for the time being in office under the Maharaja's Proclamation dated the fifth day of March, 1948;

(c) the provisions of article 1 and of this article shall apply in relation to that State;

(d) such of the other provisions of this Constitution shall apply in relation to that State subject to such

Temporary provisions with respect to the State of Jammu and Kashmir.

¹In exercise of the powers conferred by this article the President, on the recommendation of the Constituent Assembly of the State of Jammu and Kashmir, declared that, as from the 17th day of November, 1952, the said art. 370 shall be operative with the modification that for the *Explanation* in cl. (1) thereof, the following *Explanation* is substituted, namely:—

"Explanation.—For the purposes of this article, the Government of the State means the person for the time being recognised by the President on the recommendation of the Legislative Assembly of the State as the *Sadar-I-Riyasat of Jammu and Kashmir, acting on the advice of the Council of Ministers of the State for the time being in office."

(Ministry of Law Order No. C.O. 44, dated the 15th November, 1952).

*Now "Governor".

(Part XXI.—*Temporary, Transitional and Special Provisions.*—Arts. 370-371.)

exceptions and modifications as the President may by order¹ specify:

Provided that no such order which relates to the matters specified in the Instrument of Accession of the State referred to in paragraph (i) of sub-clause (b) shall be issued except in consultation with the Government of the State:

Provided further that no such order which relates to matters other than those referred to in the last preceding proviso shall be issued except with the concurrence of that Government.

(2) If the concurrence of the Government of the State referred to in paragraph (ii) of sub-clause (b) of clause (1) or in the second proviso to sub-clause (d) of that clause be given before the Constituent Assembly for the purpose of framing the Constitution of the State is convened, it shall be placed before such Assembly for such decision as it may take thereon.

(3) Notwithstanding anything in the foregoing provisions of this article, the President may, by public notification, declare that this article shall cease to be operative or shall be operative only with such exceptions and modifications and from such date as he may specify:

Provided that the recommendation of the Constituent Assembly of the State referred to in clause (2) shall be necessary before the President issues such a notification.

Special provision
with respect to
the States of ****
Maharashtra and
Gujarat.

²[371. ³* * *

(2) Notwithstanding anything in this Constitution, the President may by order made with respect to ⁵[the

¹See the Constitution (Application to Jammu and Kashmir) Order, 1954 (C.O. 48) as amended from time to time, in Appendix I.

²Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 22, for art. 371.

³Cl. (1) omitted by the Constitution (Thirty-second Amendment) Act, 1973, s. 2, (w.e.f. 1-7-1974).

⁴The words "Andhra Pradesh," omitted by s. 2, *ibid.* (w.e.f. 1-7-1974).

⁵Subs. by the Bombay Reorganisation Act, 1960 (11 of 1960), s. 85, for "the State of Bombay" (w.e.f. 1-5-1960).

(Part XXI.—*Temporary, Transitional and Special Provisions.*—Arts. 371-371A.)

State of Maharashtra or Gujarat], provide for any special responsibility of the Governor for—

(a) the establishment of separate development boards for Vidarbha, Marathwada, ¹[and the rest of Maharashtra or, as the case may be,] Saurashtra, Kutch and the rest of Gujarat with the provision that a report on the working of each of these boards will be placed each year before the State Legislative Assembly;

(b) the equitable allocation of funds for developmental expenditure over the said areas, subject to the requirements of the State as a whole; and

(c) an equitable arrangement providing adequate facilities for technical education and vocational training, and adequate opportunities for employment in services under the control of the State Government, in respect of all the said areas, subject to the requirements of the State as a whole.]

²[371A. (1) Notwithstanding anything in this Constitution,—

Special provision with respect to the State of Nagaland.

(a) no Act of Parliament in respect of—

(i) religious or social practices of the Nagas,

(ii) Naga customary law and procedure,

(iii) administration of civil and criminal justice involving decisions according to Naga customary law,

(iv) ownership and transfer of land and its resources,

shall apply to the State of Nagaland unless the Legislative Assembly of Nagaland by a resolution so decides;

(b) the Governor of Nagaland shall have special responsibility with respect to law and order in the

¹Subs. by the Bombay Reorganisation Act, 1960 (11 of 1960), s. 85, for “the rest of Maharashtra,” (w.e.f. 1-5-1960).

²Ins. by the Constitution (Thirteenth Amendment) Act, 1962, s. 2 (w.e.f. 1-12-1963).

*(Part XXI.—Temporary, Transitional and Special
Provisions.—Art. 371A.)*

State of Nagaland for so long as in his opinion internal disturbances occurring in the Naga Hills-Tuensang Area immediately before the formation of that State continue therein or in any part thereof and in the discharge of his functions in relation thereto the Governor shall, after consulting the Council of Ministers, exercise his individual judgment as to the action to be taken:

Provided that if any question arises whether any matter is or is not a matter as respects which the Governor is under this sub-clause required to act in the exercise of his individual judgment, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in the exercise of his individual judgment:

Provided further that if the President on receipt of a report from the Governor or otherwise is satisfied that it is no longer necessary for the Governor to have special responsibility with respect to law and order in the State of Nagaland, he may by order direct that the Governor shall cease to have such responsibility with effect from such date as may be specified in the order;

(c) in making his recommendation with respect to any demand for a grant, the Governor of Nagaland shall ensure that any money provided by the Government of India out of the Consolidated Fund of India for any specific service or purpose is included in the demand for a grant relating to that service or purpose and not in any other demand;

(d) as from such date as the Governor of Nagaland may by public notification in this behalf specify, there shall be established a regional council for the Tuensang district consisting of thirty-five members and the Governor shall in his discretion make rules providing for—

(i) the composition of the regional council and the manner in which the members of the regional council shall be chosen:

(Part XXI.—*Temporary, Transitional and Special Provisions.*—Art. 371A.)

Provided that the Deputy Commissioner of the Tuensang district shall be the Chairman *ex officio* of the regional council and the Vice-Chairman of the regional council shall be elected by the members thereof from amongst themselves;

(ii) the qualifications for being chosen as, and for being, members of the regional council;

(iii) the term of office of, and the salaries and allowances, if any, to be paid to members of, the regional council;

(iv) the procedure and conduct of business of the regional council;

(v) the appointment of officers and staff of the regional council and their conditions of services; and

(vi) any other matter in respect of which it is necessary to make rules for the constitution and proper functioning of the regional council.

(2) Notwithstanding anything in this Constitution, for a period of ten years from the date of the formation of the State of Nagaland or for such further period as the Governor may, on the recommendation of the regional council, by public notification specify in this behalf,—

(a) the administration of the Tuensang district shall be carried on by the Governor;

(b) where any money is provided by the Government of India to the Government of Nagaland to meet the requirements of the State of Nagaland as a whole, the Governor shall in his discretion arrange for an equitable allocation of that money between the Tuensang district and the rest of the State;

(Part XXI.—Temporary, Transitional and Special Provisions.—Art. 371A.)

(c) no Act of the Legislature of Nagaland shall apply to Tuensang district unless the Governor, on the recommendation of the regional council, by public notification so directs and the Governor in giving such direction with respect to any such Act may direct that the Act shall in its application to the Tuensang district or any part thereof have effect subject to such exceptions or modifications as the Governor may specify on the recommendation of the regional council:

Provided that any direction given under this sub-clause may be given so as to have retrospective effect;

(d) the Governor may make regulations for the peace, progress and good Government of the Tuensang district and any regulations so made may repeal or amend with retrospective effect, if necessary, any Act of Parliament or any other law which is for the time being applicable to that district;

(e) (i) one of the members representing the Tuensang district in the Legislative Assembly of Nagaland shall be appointed Minister for Tuensang affairs by the Governor on the advice of the Chief Minister and the Chief Minister in tendering his advice shall act on the recommendation of the majority of the members as aforesaid¹;

(ii) the Minister for Tuensang affairs shall deal with, and have direct access to the Governor on, all matters relating to the Tuensang district but he shall keep the Chief Minister informed about the same;

¹Paragraph 2 of the Constitution (Removal of Difficulties) Order No. X provides (w.e.f. 1-12-1963) that article 371A of the Constitution of India shall have effect as if the following Proviso were added to paragraph (i) of sub-clause (e) of clause (2) thereof, namely:—

“Provided that the Governor may, on the advice of the Chief Minister, appoint any person as Minister for Tuensang affairs to act as such until such time as persons are chosen in accordance with law to fill the seats allocated to the Tuensang district in the Legislative Assembly of Nagaland.”.

(Part XXI.—*Temporary, Transitional and Special Provisions.*—Art. 371A.)

(f) notwithstanding anything in the foregoing provisions of this clause, the final decision on all matters relating to the Tuensang district shall be made by the Governor in his discretion;

(g) in articles 54 and 55 and clause (4) of article 80, references to the elected members of the Legislative Assembly of a State or to each such member shall include references to the members or member of the Legislative Assembly of Nagaland elected by the regional council established under this article;

(h) in article 170—

(i) clause (1) shall, in relation to the Legislative Assembly of Nagaland, have effect as if for the word “sixty”, the word “forty-six” had been substituted;

(ii) in the said clause, the reference to direct election from territorial constituencies in the State shall include election by the members of the regional council established under this article;

(iii) in clauses (2) and (3), references to territorial constituencies shall mean references to territorial constituencies in the Kohima and Mokokchung districts.

(3) If any difficulty arises in giving effect to any of the foregoing provisions of this article, the President may by order do anything (including any adaptation or modification of any other article) which appears to him to be necessary for the purpose of removing that difficulty:

Provided that no such order shall be made after the expiration of three years from the date of the formation of the State of Nagaland.

Explanation.—In this article, the Kohima, Mokokchung and Tuensang districts shall have the same meanings as in the State of Nagaland Act, 1962.]

(Part XXI.—Temporary, Transitional and Special
Provisions.—Arts. 371B-371C.)

Special provision
with respect to
the State of
Assam.

¹[371B. Notwithstanding anything in this Constitution, the President may, by order made with respect to the State of Assam, provide for the constitution and functions of a committee of the Legislative Assembly of the State consisting of members of that Assembly elected from the tribal areas specified in ²[Part I] of the table appended to paragraph 20 of the Sixth Schedule and such number of other members of that Assembly as may be specified in the order and for the modifications to be made in the rules of procedure of that Assembly for the constitution and proper functioning of such committee.]

Special provision
with respect to
the State of
Manipur.

³[371C. (1) Notwithstanding anything in this Constitution, the President may, by order made with respect to the State of Manipur, provide for the constitution and functions of a committee of the Legislative Assembly of the State consisting of members of that Assembly elected from the Hill Areas of that State, for the modifications to be made in the rules of business of the Government and in the rules of procedure of the Legislative Assembly of the State and for any special responsibility of the Governor in order to secure the proper functioning of such committee.

(2) The Governor shall annually, or whenever so required by the President, make a report to the President regarding the administration of the Hill Areas in the State of Manipur and the executive power of the Union shall extend to the giving of directions to the State as to the administration of the said areas.

Explanation.—In this article, the expression “Hill Areas” means such areas as the President may, by order, declare to be Hill areas.]

¹Ins. by the Constitution (Twenty-second Amendment) Act, 1969, s. 4.

²Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71, for “Part A” (w.e.f. 21-1-1972).

³Ins. by the Constitution (Twenty-seventh Amendment) Act, 1971, s. 5 (w.e.f. 15-2-1972).

(Part XXI.—Temporary, Transitional and Special Provisions.—Art. 371D.)

¹[371D. (1) The President may by order made with respect to the State of Andhra Pradesh provide, having regard to the requirements of the State as a whole, for equitable opportunities and facilities for the people belonging to different parts of the State, in the matter of public employment and in the matter of education, and different provisions may be made for various parts of the State.

Special provisions with respect to the State of Andhra Pradesh.

(2) An order made under clause (1) may, in particular,—

(a) require the State Government to organise any class or classes of posts in a civil service of, or any class or classes of civil posts under, the State into different local cadres for different parts of the State and allot in accordance with such principles and procedure as may be specified in the order the persons holding such posts to the local cadres so organised;

(b) specify any part or parts of the State which shall be regarded as the local area—

(i) for direct recruitment to posts in any local cadre (whether organised in pursuance of an order under this article or constituted otherwise) under the State Government;

(ii) for direct recruitment to posts in any cadre under any local authority within the State; and

(iii) for the purposes of admission to any University within the State or to any other educational institution which is subject to the control of the State Government;

(c) specify the extent to which, the manner in which and the conditions subject to which, preference or reservation shall be given or made—

(i) in the matter of direct recruitment to posts in any such cadre referred to in sub-clause (b) as may be specified in this behalf in the order;

¹ Ins. by the Constitution (Thirty-second Amendment) Act, 1973, s. 3 (w.e.f. 1-7-1974).

(Part XXI.—Temporary, Transitional and Special Provisions.—Art. 371D.)

(ii) in the matter of admission to any such University or other educational institution referred to in sub-clause (b) as may be specified in this behalf in the order,

to or in favour of candidates who have resided or studied for any period specified in the order in the local area in respect of such cadre, University or other educational institution, as the case may be.

(3) The President may, by order, provide for the constitution of an Administrative Tribunal for the State of Andhra Pradesh to exercise such jurisdiction, powers and authority [including any jurisdiction, power and authority which immediately before the commencement of the Constitution (Thirty-second Amendment) Act, 1973, was exercisable by any court (other than the Supreme Court) or by any tribunal or other authority] as may be specified in the order with respect to the following matters, namely:—

(a) appointment, allotment or promotion to such class or classes of posts in any civil service of the State, or to such class or classes of civil posts under the State, or to such class or classes of posts under the control of any local authority within the State, as may be specified in the order;

(b) seniority of persons appointed, allotted or promoted to such class or classes of posts in any civil service of the State, or to such class or classes of civil posts under the State, or to such class or classes of posts under the control of any local authority within the State, as may be specified in the order;

(c) such other conditions of service of persons appointed, allotted or promoted to such class or classes of posts in any civil service of the State or to such class or classes of civil posts under the State or to such class or classes of posts under the control of any local authority within the State, as may be specified in the order.

(Part XXI.—Temporary, Transitional and Special Provisions.—Art. 371D.)

(4) An order made under clause (3) may—

(a) authorise the Administrative Tribunal to receive representations for the redress of grievances relating to any matter within its jurisdiction as the President may specify in the order and to make such orders thereon as the Administrative Tribunal deems fit;

(b) contain such provisions with respect to the powers and authorities and procedure of the Administrative Tribunal (including provisions with respect to the powers of the Administrative Tribunal to punish for contempt of itself) as the President may deem necessary;

(c) provide for the transfer to the Administrative Tribunal of such classes of proceedings, being proceedings relating to matters within its jurisdiction and pending before any court (other than the Supreme Court) or tribunal or other authority immediately before the commencement of such order, as may be specified in the order;

(d) contain such supplemental, incidental and consequential provisions (including provisions as to fees and as to limitation, evidence or for the application of any law for the time being in force subject to any exceptions or modifications) as the President may deem necessary.

¹(5) The Order of the Administrative Tribunal finally disposing of any case shall become effective upon its confirmation by the State Government or on the expiry of three months from the date on which the order is made, whichever is earlier:

Provided that the State Government may, by special order made in writing and for reasons to be specified

¹In *P. Sambamurthy and others vs. State of Andhara Pradesh and another* (1987) 1 SCC, p. 362, the Supreme Court declared cl. (5) of art. 371D along with the proviso to be unconstitutional and void.

*(Part XXI.—Temporary, Transitional and Special
Provisions.—Art. 371D.)*

therein, modify or annul any order of the Administrative Tribunal before it becomes effective and in such a case, the order of the Administrative Tribunal shall have effect only in such modified form or be of no effect, as the case may be.

(6) Every special order made by the State Government under the proviso to clause (5) shall be laid, as soon as may be after it is made, before both Houses of the State Legislature.

(7) The High Court for the State shall not have any powers of superintendence over the Administrative Tribunal and no court (other than the Supreme Court) or tribunal shall exercise any jurisdiction, power or authority in respect of any matter subject to the jurisdiction, power or authority of, or in relation to, the Administrative Tribunal.

(8) If the President is satisfied that the continued existence of the Administrative Tribunal is not necessary, the President may by order abolish the Administrative Tribunal and make such provisions in such order as he may deem fit for the transfer and disposal of cases pending before the Tribunal immediately before such abolition.

(9) Notwithstanding any judgment, decree or order of any court, tribunal or other authority,—

(a) no appointment, posting, promotion or transfer of any person—

(i) made before the 1st day of November, 1956, to any post under the Government of, or any local authority within, the State of Hyderabad as it existed before that date; or

(ii) made before the commencement of the Constitution (Thirty-second Amendment) Act, 1973, to any post under the Government of, or any local or other authority within, the State of Andhra Pradesh; and

(Part XXI.—Temporary, Transitional and Special Provisions.—Arts. 371D—371F.)

(b) no action taken or thing done by or before any person referred to in sub-clause (a),

shall be deemed to be illegal or void or ever to have become illegal or void merely on the ground that the appointment, posting, promotion or transfer of such person was not made in accordance with any law, then in force, providing for any requirement as to residence within the State of Hyderabad or, as the case may be, within any part of the State of Andhra Pradesh, in respect of such appointment, posting, promotion or transfer.

(10) The provisions of this article and of any order made by the President thereunder shall have effect notwithstanding anything in any other provision of this Constitution or in any other law for the time being in force.

371E. Parliament may by law provide for the establishment of a University in the State of Andhra Pradesh.]

Establishment of Central University in Andhra Pradesh.

¹[**371F.** Notwithstanding anything in this Constitution,—

Special provisions with respect to the State of Sikkim.

(a) the Legislative Assembly of the State of Sikkim shall consist of not less than thirty members;

(b) as from the date of commencement of the Constitution (Thirty-sixth Amendment) Act, 1975 (hereafter in this article referred to as the appointed day)—

(i) the Assembly for Sikkim formed as a result of the elections held in Sikkim in April, 1974 with thirty-two members elected in the said elections (hereinafter referred to as the sitting members) shall be deemed to be the Legislative Assembly of the State of Sikkim duly constituted under this Constitution;

¹Ins. by the Constitution (Thirty-sixth Amendment) Act, 1975, s. 3 (w.e.f. 26-4-1975).

(Part XXI.—Temporary, Transitional and Special Provisions.—Art. 371F.)

(ii) the sitting members shall be deemed to be the members of the Legislative Assembly of the State of Sikkim duly elected under this Constitution; and

(iii) the said Legislative Assembly of the State of Sikkim shall exercise the powers and perform the functions of the Legislative Assembly of a State under this Constitution;

(c) in the case of the Assembly deemed to be the Legislative Assembly of the State of Sikkim under clause (b), the references to the period of ¹[five years], in clause (1) of article 172 shall be construed as references to a period of ²[four years] and the said period of ²[four years] shall be deemed to commence from the appointed day;

(d) until other provisions are made by Parliament by law, there shall be allotted to the State of Sikkim one seat in the House of the People and the State of Sikkim shall form one parliamentary constituency to be called the parliamentary constituency for Sikkim;

(e) the representative of the State of Sikkim in the House of the People in existence on the appointed day shall be elected by the members of the Legislative Assembly of the State of Sikkim;

(f) Parliament may, for the purpose of protecting the rights and interests of the different sections of the population of Sikkim make provision for the number of seats in the Legislative Assembly of the State of Sikkim which may be filled by candidates belonging to such sections and for the delimitation of the assembly constituencies from which candidates

¹Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 43, for "six years" (w.e.f. 6-9-1979). The words "six years" were subs. for the original words "five years" by the Constitution (Forty-second Amendment) Act, 1976, s. 56 (w.e.f. 3-1-1977).

²Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 43, for "five years" (w.e.f. 6-9-1979). The words "five years" were subs. for the original words "four years" by the Constitution (Forty-second Amendment) Act, 1976, s. 56 (w.e.f. 3-1-1977).

(Part XXI.—Temporary, Transitional and Special Provisions.—Art. 371F.)

belonging to such sections alone may stand for election to the Legislative Assembly of the State of Sikkim;

(g) the Governor of Sikkim shall have special responsibility for peace and for an equitable arrangement for ensuring the social and economic advancement of different sections of the population of Sikkim and in the discharge of his special responsibility under this clause, the Governor of Sikkim shall, subject to such directions as the President may, from time to time, deem fit to issue, act in his discretion;

(h) all property and assets (whether within or outside the territories comprised in the State of Sikkim) which immediately before the appointed day were vested in the Government of Sikkim or in any other authority or in any person for the purposes of the Government of Sikkim shall, as from the appointed day, vest in the Government of the State of Sikkim;

(i) the High Court functioning as such immediately before the appointed day in the territories comprised in the State of Sikkim shall, on and from the appointed day, be deemed to be the High Court for the State of Sikkim;

(j) all courts of civil, criminal and revenue jurisdiction, all authorities and all officers, judicial, executive and ministerial, throughout the territory of the State of Sikkim shall continue on and from the appointed day to exercise their respective functions subject to the provisions of this Constitution;

(k) all laws in force immediately before the appointed day in the territories comprised in the State of Sikkim or any part thereof shall continue to be in force therein until amended or repealed by a competent Legislature or other competent authority;

(Part XXI.—Temporary, Transitional and Special Provisions.—Art. 371F.)

(l) for the purpose of facilitating the application of any such law as is referred to in clause (k) in relation to the administration of the State of Sikkim and for the purpose of bringing the provisions of any such law into accord with the provisions of this Constitution, the President may, within two years from the appointed day, by order, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon, every such law shall have effect subject to the adaptations and modifications so made, and any such adaptation or modification shall not be questioned in any court of law;

(m) neither the Supreme Court nor any other court shall have jurisdiction in respect of any dispute or other matter arising out of any treaty, agreement, engagement or other similar instrument relating to Sikkim which was entered into or executed before the appointed day and to which the Government of India or any of its predecessor Governments was a party, but nothing in this clause shall be construed to derogate from the provisions of article 143;

(n) the President may, by public notification, extend with such restrictions or modifications as he thinks fit to the State of Sikkim any enactment which is in force in a State in India at the date of the notification;

(o) if any difficulty arises in giving effect to any of the foregoing provisions of this article, the President may, by order¹, do anything (including any adaptation or modification of any other article) which appears to him to be necessary for the purpose of removing that difficulty:

Provided that no such order shall be made after the expiry of two years from the appointed day;

¹See the Constitution (Removal of Difficulties) Order No. XI (C.O. 99).

(Part XXI.—*Temporary, Transitional and Special Provisions.*—Arts. 371F—371H.)

(p) all things done and all actions taken in or in relation to the State of Sikkim or the territories comprised therein during the period commencing on the appointed day and ending immediately before the date on which the Constitution (Thirty-sixth Amendment) Act, 1975, receives the assent of the President shall, in so far as they are in conformity with the provisions of this Constitution as amended by the Constitution (Thirty-sixth Amendment) Act, 1975, be deemed for all purposes to have been validly done or taken under this Constitution as so amended.]

¹[371G. Notwithstanding anything in this Constitution,—

Special provision with respect to the State of Mizoram.

(a) no Act of Parliament in respect of—

- (i) religious or social practices of the Mizos,
- (ii) Mizo customary law and procedure,
- (iii) administration of civil and criminal justice involving decisions according to Mizo customary law,
- (iv) ownership and transfer of land,

shall apply to the State of Mizoram unless the Legislative Assembly of the State of Mizoram by a resolution so decides:

Provided that nothing in this clause shall apply to any Central Act in force in the Union territory of Mizoram immediately before the commencement of the Constitution (Fifty-third Amendment) Act, 1986;

(b) the Legislative Assembly of the State of Mizoram shall consist of not less than forty members.]

²[371H. Notwithstanding anything in this Constitution,—

Special provision with respect to the State of Arunachal Pradesh.

(a) the Governor of Arunachal Pradesh shall have special responsibility with respect to law and order

¹Ins. by the Constitution (Fifty-third Amendment) Act, 1986, s. 2 (w.e.f. 20-2-1987).

²Ins. by the Constitution (Fifty-fifth Amendment) Act, 1986, s. 2 (w.e.f. 20-2-1987).

(Part XXI.—Temporary, Transitional and Special Provisions.—Arts. 371H—372.)

in the State of Arunachal Pradesh and in the discharge of his functions in relation thereto, the Governor shall, after consulting the Council of Ministers, exercise his individual judgment as to the action to be taken:

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

Provided further that if the President on receipt of a report from the Governor or otherwise is satisfied that it is no longer necessary for the Governor to have special responsibility with respect to law and order in the State of Arunachal Pradesh, he may by order direct that the Governor shall cease to have such responsibility with effect from such date as may be specified in the order;

(b) the Legislative Assembly of the State of Arunachal Pradesh shall consist of not less than thirty members.]

Special provision with respect to the State of Goa.

¹[371-I. Notwithstanding anything in this Constitution, the Legislative Assembly of the State of Goa shall consist of not less than thirty members.]

Continuance in force of existing laws and their adaptation.

372. (1) Notwithstanding the repeal by this Constitution of the enactments referred to in article 395 but subject to the other provisions of this Constitution, all the law in force in the territory of India immediately before the commencement of this Constitution shall continue in force therein until altered or repealed or amended by a competent Legislature or other competent authority.

(2) For the purpose of brining the provisions of any law in force in the territory of India into accord with the

¹Ins. by the Constitution (Fifty-sixth Amendment) Act, 1987, s. 2 (w.e.f. 30-5-1987).

(Part XXI.—*Temporary, Transitional and Special Provisions.*—Art. 372.)

provisions of this Constitution, the President may by order¹ make such adaptations and modifications of such law, whether by way of repeal or amendment, as may be necessary or expedient, and provide that the law shall, as from such date as may be specified in the order, have effect subject to the adaptations and modifications so made, and any such adaptation or modification shall not be questioned in any court of law.

(3) Nothing in clause (2) shall be deemed—

(a) to empower the President to make any adaptation or modification of any law after the expiration of ²[three years] from the commencement of this Constitution; or

(b) to prevent any competent Legislature or other competent authority from repealing or amending any law adapted or modified by the President under the said clause.

Explanation I.—The expression “law in force” in this article shall include a law passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that it or parts of it may not be then in operation either at all or in particular areas.

Explanation II.—Any law passed or made by a Legislature or other competent authority in the territory of India which immediately before the commencement of this Constitution had extra-territorial effect as well as effect in the territory of India shall, subject to any such adaptations and modifications as aforesaid, continue to have such extra-territorial effect.

¹See the Adaptation of Laws Order, 1950, dated the 26th January, 1950, Gazette of India, Extraordinary, p. 449, as amended by Notification No. S.R.O. 115, dated the 5th June, 1950, Gazette of India, Extraordinary, Part II, Section 3, p. 51, Notification No. S.R.O. 870, dated the 4th November, 1950, Gazette of India, Extraordinary, Part II, Section 3, p. 903, Notification No. S.R.O. 508, dated the 4th April, 1951, Gazette of India, Extraordinary, Part II, Section 3, p. 287, Notification No. S.R.O. 1140B, dated 2nd July, 1952, Gazette of India, Extraordinary, Part II, Section 3, p. 616/I; and the Adaptation of the Travancore-Cochin Land Acquisition Laws Order, 1952, dated the 20th November, 1952, Gazette of India, Extraordinary, Part II, Section 3, p. 923.

²Subs. by the Constitution (First Amendment) Act, 1951, s. 12, for “two years”.

(Part XXI.—Temporary, Transitional and Special
Provisions.—Arts. 372—373.)

Explanation III.—Nothing in this article shall be construed as continuing any temporary law in force beyond the date fixed for its expiration or the date on which it would have expired if this Constitution had not come into force.

Explanation IV.—An Ordinance promulgated by the Governor of a Province under section 88 of the Government of India Act, 1935, and in force immediately before the commencement of this Constitution shall, unless withdrawn by the Governor of the corresponding State earlier, cease to operate at the expiration of six weeks from the first meeting after such commencement of the Legislative Assembly of that State functioning under clause (1) of article 382, and nothing in this article shall be construed as continuing any such Ordinance in force beyond the said period.

Power of the
President to
adapt laws.

¹[**372A.** (1) For the purposes of bringing the provisions of any law in force in India or in any part thereof, immediately before the commencement of the Constitution (Seventh Amendment) Act, 1956, into accord with the provisions of this Constitution as amended by that Act, the President may by order² made before the first day of November, 1957, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and provide that the law shall, as from such date as may be specified in the order, have effect subject to the adaptations and modifications so made, and any such adaptation or modification shall not be questioned in any court of law.

(2) Nothing in clause (1) shall be deemed to prevent a competent Legislature or other competent authority from repealing or amending any law adapted or modified by the President under the said clause.]

Power of President
to make order in
respect of persons
under preventive
detention in certain
cases.

373. Until provision is made by Parliament under clause (7) of article 22, or until the expiration of one year from the commencement of this Constitution, whichever is earlier, the said article shall have effect as if for any reference to Parliament in clauses (4) and (7) thereof there

¹Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 23.

²See the Adaptation of Laws Orders of 1956 and 1957.

(Part XXI.—Temporary, Transitional and Special Provisions.—Art. 373-374.)

were substituted a reference to the President and for any reference to any law made by Parliament in those clauses there were substituted a reference to an order made by the President.

374. (1) The Judges of the Federal Court holding office immediately before the commencement of this Constitution shall, unless they have elected otherwise, become on such commencement the Judges of the Supreme Court and shall thereupon be entitled to such salaries and allowances and to such rights in respect of leave of absence and pension as are provided for under article 125 in respect of the Judges of the Supreme Court.

Provisions as to Judges of the Federal Court and proceedings pending in the Federal Court or before His Majesty in Council.

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

(3) Nothing in this Constitution shall operate to invalidate the exercise of jurisdiction by His Majesty in Council to dispose of appeals and petitions from, or in respect of, any judgment, decree or order of any court within the territory of India in so far as the exercise of such jurisdiction is authorised by law, and any order of His Majesty in Council made on any such appeal or petition after the commencement of this Constitution shall for all purposes have effect as if it were an order or decree made by the Supreme Court in the exercise of the jurisdiction conferred on such Court by this Constitution.

(4) On and from the commencement of this Constitution the jurisdiction of the authority functioning as the Privy Council in a State specified in Part B of the

(Part XXI.—Temporary, Transitional and Special Provisions.—Arts. 374—376.)

First Schedule to entertain and dispose of appeals and petitions from or in respect of any judgment, decree or order of any court within that State shall cease, and all appeals and other proceedings pending before the said authority at such commencement shall be transferred to, and disposed of by, the Supreme Court.

(5) Further provision may be made by Parliament by law to give effect to the provisions of this article.

Courts, authorities and officers to continue to function subject to the provisions of the Constitution.

375. All courts of civil, criminal and revenue jurisdiction, all authorities and all officers, judicial, executive and ministerial, throughout the territory of India, shall continue to exercise their respective functions subject to the provisions of this Constitution.

Provisions as to Judges of High Courts.

376. (1) Notwithstanding anything in clause (2) of article 217, the Judges of a High Court in any Province holding office immediately before the commencement of this Constitution shall, unless they have elected otherwise, become on such commencement the Judges of the High Court in the corresponding State, and shall thereupon be entitled to such salaries and allowances and to such rights in respect of leave of absence and pension as are provided for under article 221 in respect of the Judges of such High Court. ¹[Any such Judge shall, notwithstanding that he is not a citizen of India, be eligible for appointment as Chief Justice of such High Court, or as Chief Justice or other Judge of any other High Court.]

(2) The Judges of a High Court in any Indian State corresponding to any State specified in Part B of the First Schedule holding office immediately before the commencement of this Constitution shall, unless they have elected otherwise, become on such commencement the Judges of the High Court in the State so specified and shall, notwithstanding anything in clauses (1) and (2) of article 217 but subject to the proviso to clause (1) of that article, continue to hold office until the expiration of such period as the President may by order determine.

¹Added by the by the Constitution (First Amendment) Act, 1951, s. 13.

(Part XXI.—Temporary, Transitional and Special Provisions.—Art. 376—378.)

(3) In this article, the expression “Judge” does not include an acting Judge or an additional Judge.

377. The Auditor-General of India holding office immediately before the commencement of this Constitution shall, unless he has elected otherwise, become on such commencement the Comptroller and Auditor-General of India and shall thereupon be entitled to such salaries and to such rights in respect of leave of absence and pension as are provided for under clause (3) of article 148 in respect of the Comptroller and Auditor-General of India and be entitled to continue to hold office until the expiration of his term of office as determined under the provisions which were applicable to him immediately before such commencement.

Provisions as to
Comptroller and
Auditor-General
of India.

378. (1) The members of the Public Service Commission for the Dominion of India holding office immediately before the commencement of this Constitution shall, unless they have elected otherwise, become on such commencement the members of the Public Service Commission for the Union and shall, notwithstanding anything in clauses (1) and (2) of article 316 but subject to the proviso to clause (2) of that article, continue to hold office until the expiration of their term of office as determined under the rules which were applicable immediately before such commencement to such members.

Provisions as to
Public Service
Commissions.

(2) The members of a Public Service Commission of a Province or of a Public Service Commission serving the needs of a group of Provinces holding office immediately before the commencement of this Constitution shall, unless they have elected otherwise, become on such commencement the members of the Public Service Commission for the corresponding State or the members of the Joint State Public Service Commission serving the needs of the corresponding States, as the case may be, and shall, notwithstanding anything in clauses (1) and (2) of article 316 but subject to the proviso to clause (2) of that article, continue to hold office until the expiration of their term of office as determined under the rules which were applicable immediately before such commencement to such members.

(Part XXI.—Temporary, Transitional and Special
Provisions.—Art. 378A—392.)

Special provision
as to duration of
Andhra Pradesh
Legislative
Assembly.

¹[**378A.** Notwithstanding anything contained in article 172, the Legislative Assembly of the State of Andhra Pradesh as constituted under the provisions of sections 28 and 29 of the States Reorganisation Act, 1956, shall, unless sooner dissolved, continue for a period of five years from the date referred to in the said section 29 and no longer and the expiration of the said period shall operate as a dissolution of that Legislative Assembly.]

379.—391. *Rep. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.*

Power of the
President to
remove difficulties.

392. (1) The President may, for the purpose of removing any difficulties, particularly in relation to the transition from the provisions of the Government of India Act, 1935, to the provisions of this Constitution, by order direct that this Constitution shall, during such period as may be specified in the order, have effect subject to such adaptations, whether by way of modification, addition or omission, as he may deem to be necessary or expedient:

Provided that no such order shall be made after the first meeting of Parliament duly constituted under Chapter II of Part V.

(2) Every order made under clause (1) shall be laid before Parliament.

(3) The powers conferred on the President by this article, by article 324, by clause (3) of article 367 and by article 391 shall, before the commencement of this Constitution, be exercisable by the Governor-General of the Dominion of India.

¹Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 24.

PART XXII

SHORT TITLE, COMMENCEMENT ¹[, AUTHORITY TATIVE TEXT IN HINDI] AND REPEALS

393. This Constitution may be called the Constitution of India.

Short title.

394. This article and articles 5, 6, 7, 8, 9, 60, 324, 366, 367, 379, 380, 388, 391, 392 and 393 shall come into force at once, and the remaining provisions of this Constitution shall come into force on the twenty-sixth day of January, 1950, which day is referred to in this Constitution as the commencement of this Constitution.

Commencement.

²[**394A.** (1) The President shall cause to be published under his authority,—

Authoritative text
in the Hindi
language.

(a) the translation of this Constitution in the Hindi language, signed by the members of the Constituent Assembly, with such modifications as may be necessary to bring it in conformity with the language, style and terminology adopted in the authoritative texts of Central Acts in the Hindi language, and incorporating therein all the amendments of this Constitution made before such publication; and

(b) the translation in the Hindi language of every amendment of this Constitution made in the English language.

(2) The translation of this Constitution and of every amendment thereof published under clause (1) shall be construed to have the same meaning as the original thereof and if any difficulty arises in so construing any part of such translation, the President shall cause the same to be revised suitably.

(3) The translation of this Constitution and of every amendment thereof published under this article shall be

¹Ins. by the Constitution (Fifty-eighth Amendment) Act, 1987, s. 2.

²Ins. by s. 3, *ibid.*

(Part XXII.—Short Title, Commencement, Authoritative Text in Hindi and Repeals.—Arts. 394A-395.)

deemed to be, for all purposes, the authoritative text thereof in the Hindi language.]

Repeals.

395. The Indian Independence Act, 1947, and the Government of India Act, 1935, together with all enactments amending or supplementing the latter Act, but not including the Abolition of Privy Council Jurisdiction Act, 1949, are hereby repealed.

Plain English Campaign: The A to Z guide to legal phrases

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The A to Z guide to legal phrases

This is only a basic guide. If you have any suggestions, corrections or improvements, please contact us. You can contact us at:

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Introduction

The language used in law is changing. Many lawyers are now adopting a plain English style. But there are still legal phrases that baffle non-lawyers. This guide is intended to help in two ways:

- it should help non-lawyers understand legal phrases; and
- it should give lawyers ideas for explaining the legal phrases that they use.

The explanations in this guide are **not** intended to be straight alternatives.

Although we hope the explanations will prompt lawyers to make sure they only use legal jargon where strictly necessary, our wording is there to explain ideas and concepts rather than to give strict legal definitions.

The terms and explanations are for the law in England and Wales.

This is very much a 'work in progress', and we welcome any corrections, clarifications or suggested additions. Please email us with your comments.

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A

Abandonment

giving up a legal right.

Abatement is:

cancelling a writ or action;
stopping a nuisance;
reducing the payments to creditors in proportion, if there is not enough money to pay them in full; or
reducing the bequests in a will, in proportion, when there is not enough money to pay them in full.

Abduction

taking someone away by force.

Ab initio

from the start of something. (This phrase is Latin.)

Abovementioned

describing something which has been referred to before in the document.

Abscond

when a person fails to present themselves before the court when required, such as when they have been released on bail and not returned to court.

Absolute	complete and unconditional.
Absolute discharge	someone who has been convicted of an offence being released without any penalty. (They may still have to pay compensation though.)
Absolute owner	the only owner of property such as equipment, buildings, land or vehicles.
Absolute privilege	<p>a defence which can be used in a case of defamation if the statement from which the defamation arose was:</p> <ul style="list-style-type: none"> • made in Parliament; • in fair and accurate news reporting of court proceedings; or • made during court proceedings.
Abstract of title	a document, drawn up by the seller, summarising the title deeds to a property (such as a house).
Abuse of process	when criminal proceedings are brought against a person without there being any good reason and with malice.
Abutments	the parts of the boundaries of a piece of land which touch pieces of land alongside.
Acceptance	when an offer is accepted unconditionally and a legally binding agreement is created.
Acceptance of service	when a solicitor accepts a writ on behalf of a client.
Acceptor	the organisation (such as a bank) which will pay the cheque or bill of exchange it has accepted.
Accessory	someone who encourages or helps another person to commit a crime.
Accomplice	someone who helps another person to commit a crime.
Accordingly	a word used in legal documents which means therefore or so.
Accounts	the record of an organisation's income, spending and financial situation.

Accumulation	reinvesting income generated by a fund back into the fund.
Accused	the person charged with a criminal offence.
Acknowledgement	admitting that someone has a claim or admitting that a debt exists.
Acknowledgement of Service	when a defendant agrees that a writ or originating summons ('claim form' since April 1999) has been received. The defendant fills in, signs and sends back the acknowledgement of service to confirm in writing that the documents were received.
Acquit	when a court lets a person go without any penalty. If a court decides that a person is not guilty of a crime, or the case has not been proved, it will acquit the person.
Acquittal	the court's decision that a person is innocent of the crime they were charged with.
Action	using the law to make a claim.
Active trust	a trust where the trustees have other responsibilities rather than to just let the beneficiaries have the trust's assets when they ask for them.
Act of bankruptcy	an act which, if carried out by a person with debts, could have led to bankruptcy proceedings against that person.
Act of God	an extreme naturally occurring event (such as an earthquake, avalanche or flood) that could not have been anticipated.
Actual bodily harm	hurting another person but less severely than would amount to grievous bodily harm.
Actual loss	an insurance term which means that the insured item no longer exists.

Actuary	an expert on pension scheme assets and liabilities, life expectancy and probabilities (the likelihood of things happening) for insurance purposes. An actuary works out whether enough money is being paid into a pension scheme to pay the pensions when they are due.
Actus reus	an act which is illegal, such as theft. (This term is Latin.)
Additional voluntary contribution (AVC)	extra money people in occupational pension schemes can pay in to increase their pension benefits.
Ademption	when a gift in a will cannot be made because the item no longer exists.
Ad hoc	for a particular purpose. For example, a committee set up to deal with a particular situation is an ad hoc committee. (This term is Latin.)
Ad idem	in agreement. (This term is Latin.)
Ad infinitum	endlessly or forever. (This term is Latin.)
Adjourned sine die	when a court case has no date fixed for it to continue.
Adjournment	postponing a court hearing.
Adjudge/adjudicate	to give an official judgement about something. For example, if someone cannot pay their debts a court may adjudge them bankrupt.
Adjudication order	the former name for a court order which made someone bankrupt. It has now been replaced with the term bankruptcy order.
Administration order	an order made by a county court when a person or a company cannot pay their debts. Normally the court orders that the debts are repaid by instalments and as long as the debtor keeps to the order the creditors cannot do anything else to recover their money.

Administrator

someone who has been appointed to manage the affairs of a bankrupt business; or to manage the estate of someone who has died without leaving a will.

Admissibility of Evidence

which evidence can be presented in court. Evidence must be relevant to the case but even some relevant evidence cannot be presented, such as hearsay or evidence of little value. The judge decides whether or not evidence can be used in the case.

Admission

one side in a case agreeing that something the other side has alleged is true.

Admonition

reprimanding of a defendant by a judge even though the case against the defendant has been discharged (dropped).

Adoption

the system which people use to become parents, even though they are not the child's natural parents.

Adoptive child

a child who has been legally adopted.

Adoptive parent

a person who has legally adopted a child.

Ad valorem

in proportion to the value. An ad valorem duty goes up as the value of the goods, shares and so on that it is charged on rises. (This term is Latin.)

Adverse possession

intentionally occupying land to prevent the rightful owner or tenant using it.

Adverse witness

a witness who gives evidence which damages the case of the side which asked the witness to testify for them.

Advocate

is:

- the lawyer who speaks in court for a client; or
- a Scottish lawyer who is the equivalent of a barrister in England and Wales.

Affidavit

a written statement which is sworn to be true by the person signing it. It is sworn before someone authorised by the court.

Affirm

to:

- solemnly promise to tell the truth in court;
- solemnly promise to tell the truth in an affidavit;
- confirm a decision made by a lower court; or
- allow a contract to continue even though it could have been cancelled because it was fundamentally breached.

Affirmation

solemnly promising to tell the truth when giving evidence. It is an alternative to swearing an oath when the person giving evidence does not wish to.

Affray

fighting unlawfully. It is a criminal offence.

Aforementioned

describing something referred to previously in the document.

Aforesaid

describing something which has been said or referred to before in the document.

Agency

the relationship between a principal and an agent.

Agent

someone appointed to act for a principal.

Age of consent

the age when a person can consent to have sexual intercourse. In the UK it is 16.

Aggravated assault

a more serious type of assault such as one leading to actual bodily harm.

Aggravated burglary

entering premises armed with a weapon, intending to steal goods.

Aggravated damages

extra damages awarded because the defendant has caused the victim anguish, loss of self-respect or shame.

Aggravated vehicle taking

stealing a vehicle, driving it dangerously and as a result injuring someone or damaging property.

Agricultural holding	a type of tenancy agreement for someone doing agricultural work. The tenant has special rights including, when the tenancy finishes, the right to compensation for improvements to the land. If the land has deteriorated the tenant must compensate the landlord.
Aiding and abetting	helping someone to commit a crime.
Airspace	the space in the atmosphere directly above a piece of land. If you own a piece of land you also own the airspace above the land.
Alias	a false name.
Alibi	<p>a claim that a person was elsewhere when a crime was committed. If someone is accused of a crime their alibi is:</p> <ul style="list-style-type: none"> • evidence that the person was somewhere else when the crime was committed; or • an attempt to prove that the person was somewhere else when the crime was committed.
Alien	someone from a foreign country.
Alienation	transferring the ownership of property from one person to another.
All and sundry	everybody.
Allegation	an unproved statement declaring that something has happened.
Alleviate	to lessen or reduce.
Allocation rate	the proportion of money left to be invested after charges have been taken off when money is paid into a fund (such as a pension fund). For example, if the charges were 2%, the allocation rate would be 98%.
Allotment	shares allocated to a buyer. An allotment of shares in a company gives the owner (of the allotment) an unconditional right to buy the shares at a fixed price.

All that	words used in a conveyance to introduce the description of the property which is being conveyed.
Alternate director	a person appointed by a director to take the director's place.
Alternative verdict	a person being found guilty of a less serious crime than the one they were charged with. If a more serious charge has not been proved and the defendant has been found not guilty, the defendant may be found guilty of a less serious crime instead. For example, there may not be enough evidence to convict someone of a murder but there may still be enough for a manslaughter conviction. This is known as an alternative verdict.
Amalgamation	two or more companies combining.
Ambiguity	capability of more than one meaning. When a statement's meaning is not clear because it is capable of more than one meaning, it contains an ambiguity.
Ambulatory will	a will which can be revoked or changed while the person who made it is still living.
Amnesty	not punishing a person for an offence they have committed and removing details of the offence from the court's records is giving the person an amnesty.
Ancient lights	the right not to have the light you receive from a neighbour's land blocked.
Annual accounts	the summary of an organisation's financial transactions during the year covered by their accounts, and a 'snapshot' of the assets and liabilities at the end of the year.
Annual general Meeting	the yearly meeting of the members of an organisation which must be held to meet legal conditions. The annual accounts are presented for approval at this meeting.
Annual return	a return which must be sent by companies to the Registrar of Companies. Each year the officers of a company have to fill in an annual return with details

of the members, officers, shares issued and other information about the company. The return is then sent to Companies House for filing and is available for inspection by members of the public.

Annuitant

the person who gets paid an annuity.

Annuity

an amount paid out every year to someone. The money usually comes from an insurance policy. It can be split up into smaller amounts and be paid out more frequently, such as monthly. It is usually paid for the rest of the beneficiary's life.

Annul

to cancel:

- an invalid marriage; or
- a bankruptcy order.

Ante

before. (This is a Latin word.)

Antecedents

details about the past of a defendant or a person found guilty of a crime. The information about previous crimes, background and bad behaviour is given to the court before the sentence is given.

Antenuptial agreement

a legal agreement between two people who are about to get married. The agreement sets out how the couple's assets will be divided between them if they later divorce.

Anton Piller order

an order by the High Court. It gives the applicant permission to search the defendant's premises for evidence, inspect it and take it away. It is intended to prevent evidence being destroyed or hidden which would be relevant to the case. (Since April 1999, this has been known as a 'search order'.)

Appeal

asking a court to overturn a lower court's decision. If the decision of a court is disputed it may be possible to ask a higher court to consider the case again by lodging an appeal.

Appellant

the person who is appealing to a court against a decision of a lower court.

Appellate jurisdiction

the authority a court has to hear an appeal against a decision made by a lower court.

Appertaining to Applicant	the person asking a court to do something.
Appointee	the person who gets the benefit of the use of a power of appointment.
Appointor	the person who uses a power of appointment.
Appurtenances	minor rights in land such as a right to do something on the land.
Arbitrage	is: <ul style="list-style-type: none"> • borrowing money at a low rate of interest to lend out again at a higher rate; or • buying and selling in different markets to make profits out of the price differences.
Arbitration	settling a dispute by using a referee. If a dispute goes to arbitration it is settled by an independent referee. It avoids having to use the courts to settle the dispute.
Arbitrator	the independent referee who settles a dispute without the need to use the courts.
Arraignment	a procedure at the start of a trial when details of the offences are read out and the defendants are asked whether they will plead guilty or not guilty.
Arrest	to seize someone, usually because they are suspected of committing a crime, and take them into custody.
Arrestable offence	a crime for which a person may be arrested without a warrant being needed.
Arson	setting fire to something to cause damage to it.
Articles	the clauses in a document. A company's articles set out its rules. The articles form part of the memorandum and articles of association.
Articles of association	documents which set out a company's rules.
Assault	when someone threatens another person with physical harm. Words on their own do not amount to

assault but threatening gestures do, even if the person threatened is not touched.

Assent

a document used by personal representatives to transfer property to a beneficiary.

Asset

something owned such as a building, a vehicle or money in the bank.

Assign

to formally transfer something, such as when ownership of property is transferred from one person to another.

Assignment

the formal transfer of the rights to something. An example would be a bank customer assigning to the bank the right to receive the benefits from a life insurance policy to give the bank security for a loan.

Assurance

insurance cover for an event which will definitely happen, such as death.

Assure

to transfer the ownership of something.

Assured

the person whose life is insured or who is entitled to receive the benefit from the assurance cover.

**Assured shorthold
Tenancy**

a type of tenancy agreement under which the landlord has the right to take the property back at the end of the tenancy agreement.

Attachment of earnings

a court order that deductions be made from a person's earnings. The employer pays the money collected to the court and the court pays the money to the people it is owed to.

Attest

to sign to witness a signature on a document.

Attorney

a person appointed to act for another person (such as when someone cannot look after their own affairs). A formal document called a power of attorney is used to appoint the attorney. It is also the name used for a US lawyer.

Attorney General

the chief legal adviser to the Government. He or she must be a Member of Parliament (or have a seat in the House of Lords) and must be a barrister.

Audit

an independent examination of an organisation's records and financial statements (report and accounts) to make sure that:

- the financial statements show a fair reflection of the financial position at the accounting date;
- the income and spending is shown accurately;
- the financial statements meet any legal conditions; and
- the financial statements are drawn up clearly.

Auditor's report

a report and opinion, by an independent person or firm, on an organisation's financial records.

Authorised share Capital

the highest amount of share capital that a company can issue. The amount is set out in the company's memorandum of association.

Authorised Investments

investments in which a trustee is permitted to invest trust money, under an Act of Parliament.

Autopsy

an examination of a dead body to find the cause of death.

B**Bail**

to pay, or promise to pay, an amount of money so that an accused person is not put in prison before the trial. If the accused person does not appear at the trial, the court can keep the money put up for bail.

Bailee

a person or organisation looking after valuable items to keep them safe for the owner.

Bail hostel

accommodation found for people charged with offences and released on bail, but who do not have a permanent address so that the police know where to find them.

Bailiff	an officer of the court who carries out the court's orders, such as taking a debtor's goods and selling them to get money to pay the debtor's debts. A bailiff can also personally deliver (serve) documents on people.
Bailiwick	the area over which a bailiff has jurisdiction.
Bailment	transferring possession of goods from the owner to someone else. The ownership of the goods is not transferred. A practical example of bailment is that someone who hires a television has possession of it, but the rental company still owns the television.
Bailor	the owner of valuable items which are in the possession of another person or organisation for safekeeping.
Balance sheet	a summary of an organisation's financial position. It lists the values, in the books of account on a particular date, of all the organisation's assets and liabilities. The assets and liabilities are grouped in categories and paint a picture of the organisation's strengths and weaknesses.
Banker's draft	a cheque drawn by a bank on itself. It is used when there must be certainty that a cheque will be paid.
Bankrupt	someone who has had a bankruptcy order.
Bankruptcy order	an order that a court may issue against someone if they cannot pay their debts when they are due to be paid. This order takes ownership of the debtor's property away from the debtor and allows much of the property to be sold. The money raised is divided between the creditors following strict rules.
Bankruptcy search	a document which says whether or not someone is bankrupt.
Bar	the collective term for barristers. When a lawyer becomes a barrister, it is called 'being called to the bar'.
Bare trust	a trust which holds property on behalf of a person until they ask for it back.

Bare trustee	someone who holds property on behalf of another person until asked to return the property.
Bargain and sale	a contract to sell any property or investment in land that a person owns.
Barrister	a lawyer who can speak in the higher courts, which a solicitor is not allowed to do.
Barter	a way of paying for things by exchanging goods instead of using money.
Battery	using physical force on someone either intentionally or carelessly and without their agreement. It would not be battery if two boxers took part in a boxing match, even though they hurt each other during the match, because they would have agreed to fight each other.
Bearer	the person who has a document in their possession.
Bench	the name for the judges or magistrates in a court.
Bench warrant	a warrant issued by a court for the arrest of an accused person who has failed to attend court. It is also issued when someone has committed contempt of court and can't be traced.
Beneficial interest	belonging to a person even though someone else is the legal owner. If something really belongs to someone, even if that person does not legally own it, they have a beneficial interest in it. If, for instance, parents hold an investment on behalf of their child they are the legal owners, but the child is the beneficial owner of the investment.
Beneficial owner	the owner of a piece of land (and the buildings on it). Beneficial owners have the right: <ul style="list-style-type: none"> • to the income their land generates; or • to use the land for their own purposes. <p>It can also be a person who really owns something even though it is held in someone else's name.</p>
Beneficiary	someone who benefits from a will, a trust or a life insurance policy.
Bequeath	to leave something (such as possessions or money) to someone in your will. You cannot bequeath land or real property but you can devise them instead.

Bequest	something given in a will, other than land or real property.
Bigamy	the offence committed by someone who is already married but still goes through a marriage ceremony with someone else.
Bill of costs	the invoice the solicitor sends to a client giving details of any disbursements the solicitor has paid on behalf of the client, the fee the solicitor is charging and any expenses.
Bill of exchange	a signed written order, instructing the person it is addressed to to pay an amount of money to someone. A cheque is a type of bill of exchange.
Bill of lading	a document recording the goods a ship carries and the terms the goods are carried under.
Bill of sale	a document which transfers ownership of goods from one person to another.
Binding effect	the fact that an agreement must be kept to by law.
Binding over	an order by a court in a criminal case. If someone has misbehaved or broken the peace, magistrates can bind them over. The magistrates can order them to pay a bond. This will be forfeited (won't be repaid) if the binding over terms are broken.
Binding precedent	following the decisions made by higher courts. Lower courts must follow the precedents set by the decisions of higher courts and this is called binding precedent.
Blackmail	demanding payment from a person in return for not revealing something shameful about them.
Bodily harm	physical injury or pain.
Bona fide	genuine, sincere or in good faith. (This term is Latin.)

Bona vacantia	goods or an estate belonging to nobody. (This term is Latin.)
Bond	a written promise to repay a debt at an agreed time and to pay an agreed rate of interest on the debt.
Bonded goods	goods for which a bond has been paid to HM Customs and Excise as security for the duty owed on the goods.
Bonded warehouse	a warehouse approved by HM Customs and Excise for storing goods imported into the UK until the duty on them has been paid or the goods have been exported to another country.
Bonus shares	free shares that a company offers to its shareholders, in proportion to their existing shareholdings.
Book value	the value of a fixed asset, such as a building or machine, as recorded in an organisation's books. It is usually the amount paid for the asset less an amount for depreciation.
Bought note	a document showing details of a purchase by someone for a third party. Stockbrokers produce bought notes for their clients. The bought note shows details of the investments the broker has bought for the client, including the price paid and any commission and duty charged.
Breach of contract	failing to carry out a duty under a contract.
Breach of duty	failing to carry out something which is required by law, or doing something the law forbids.
Breach of the peace (or breaking the peace)	when harm is done to someone, or harm is threatened.
Breach of trust	when a trustee does something which is against the trust's rules or fails to do something required by the trust's rules.
Break clause	a clause in a contract which allows it to be ended.

Bridle way

a path or road which is a right of way for people walking and people leading or riding horses. Cyclists can use it as well but must give way to pedestrians and horses.

Brief

a document prepared by a solicitor which contains the instructions for the barrister to follow when acting for the solicitor in court.

Building preservation Notice

a notice that a building is listed. If a building is in danger of being altered or demolished, but the local planning authority thinks it should be preserved, the authority can issue a notice that the building is listed.

Burglary

entering a building without permission with the intention of stealing or doing damage.

Bye-law or bylaw

a law made by a local authority. It only applies within the local authority's boundaries.

C**Call**

asking people to pay for new shares they have applied for. A company makes a call when it asks buyers of its new shares to pay some, or all, of the share price. When this happens the shares are being called up.

Called-up capital

all the shares called by a company when it issues shares. When calls have been made for the whole of the share price and the shareholders have paid, the shares become paid-up share capital.

Canon law

the name for the rules used for running a Christian church.

Capacity

someone's ability to enter into a legal agreement. For example, a minor would not be able to buy something on credit.

Capital allowances

allowances that you can sometimes claim when you buy long-term assets, such as machines, to use in your business. You claim part of the cost against your profits before your tax is worked out for the year.

Capital gain	the profit you make if you sell or dispose of a longterm asset (such as a building) for more than it cost you.
Capital gains tax	a tax charged on certain capital gains.
Capital punishment	punishing someone for a crime by killing them.
Capital redemption reserve	A company has to have this reserve in its financial records and in its accounts if any of the shares it has issued are cancelled. The reserve cannot be paid out to the members until the company is liquidated and so it prevents the company's capital being reduced.
Careless driving	driving a car without consideration for other people using the road.
Care order	an order by a court instructing the local authority to care for a child.
Cartel	an agreement between businesses to restrict competition and keep prices high.
Case law	law that is based on the results of previous court cases.
Case stated	the written statement setting out the facts of a case. It is produced by a magistrates' court when asking the High Court for an opinion on the law.
Causation	one thing being done causing something else to happen.
Cause of action	the reason someone is entitled to sue someone else.
Causing death by careless and inconsiderate driving	an offence committed by someone who is unfit to drive because of drink or drugs, but nevertheless drives a vehicle and kills another person. The punishment for careless and inconsiderate driving is less severe than for dangerous driving.

Causing death by dangerous driving

a criminal offence committed by someone whose driving is dangerous and results in another person being killed. The courts consider dangerous driving to be a very serious offence.

Caution

is:

- a warning given by the police to a suspected criminal when the suspect is arrested;
- a warning given by the police when they release a suspect without prosecution that, if there are any more offences committed by the suspect, the first possible offence may be taken into account; or
- a document sent to the Land Registry by someone who may have a right over land, which demands that no dealings in the land are registered until the person with the right has been told.

Caveat

a warning. (This is a Latin term.)

Caveat emptor

'buyer beware'. It is used to warn people buying goods that they may not be able to get compensation if the goods they buy are faulty. (This is a Latin term.)

Central Criminal Court

the most senior court covering the centre of London.

Certificate of Incorporation

a certificate stating that a company has been incorporated (that is, it has a separate existence from its members). The Registrar of Companies issues the certificate of incorporation once a company has been formed.

Certificate of origin

a certificate stating in which country the goods being imported were made.

Certiorari

an order by the High Court that a case should be reviewed. If the High Court considers that a case heard in a lower court is flawed it may order that it be reviewed by the High Court. (This word is Latin.)

Challenge for cause

when the defence objects to a juror and says why it objects.

Challenge to a jury	when either side in a case objects to the people who have been selected to serve on the jury before they are sworn in.
Challenge to the array	when the defence objects to all the jurors.
Challenge without Cause	happens when the defence objects to a juror but does not say why.
Chambers	the offices used by barristers and the judge's private office.
Chancery Division	a section of the High Court. It deals with cases involving trusts, land, company law, patents and so on.
Charge	means: <ul style="list-style-type: none"> • to formally accuse someone of committing a crime; • to use property as security for a debt (such as a mortgage); or • a direction given by a judge to tell the jury what they must do.
Chargeable event	an event that may create a tax liability (tax bill).
Chargeable gain	a gain on which capital gains tax is payable. If a capital asset such as a building is sold or disposed of at a profit, tax on the gain has to be worked out unless the capital asset is one exempted by law.
Charge certificate	a certificate which the Land Registry issues to the legal mortgagee (the lender) who has lent money on the security of registered land. It is proof of the legal mortgagee's right to the security.
Charges clause	a clause which appears in some contracts and sets out who should pay for certain items.
Charge sheet	the document on which a police officer records details of the accusation against a suspect.
Charges register	part of the certificate which is evidence of someone's title. The register shows details of any mortgages,

Charging clause

restrictions on the use of the land or rights someone else may have over the land such as a right of way. trustees can charge the trust for their services if there is a charging clause.

Charging order

a court judgement which a creditor may get against the person or organisation which owes the money, giving the creditor security over the debtor's property for repayment of the debt.

Charity

an organisation set up to do good for the community, such as help poor people, educate people and protect animals. Most charities are registered with the Charity Commission.

Charity Commission

an organisation responsible for checking that charities are run properly. It also decides whether proposed charities can be placed on the register of charities.

Chattel

any property except freehold land.

Chattels personal

the name for tangible goods (goods which can be touched) such as watches, clothes, furniture and so on.

Chattels real

another name for leasehold land.

Cheat

a person who fails to send tax returns to the tax authorities or fails to pay the tax owing, such as income tax or value added tax.

Cheque

a written order, addressed to a bank, instructing the bank to pay an amount of money to the person or organisation named on the cheque. The bank takes the money out of the relevant customer's account.

Cheque card

a card issued by a bank to a customer. It guarantees that a cheque used with the card will be paid if the person issuing the cheque has kept to all the conditions.

Chief rent

money charged regularly on freehold land. Despite its name it is not rent.

Child abuse

molestation or ill-treatment suffered by a child.

**Child assessment
Order**

an order which a local authority may apply to a court for to assess a child's situation if there are concerns about the child's welfare.

Children in care

children looked after by a local authority. The local authority takes on the responsibility for the children as if it was a parent.

Child Support Agency

part of the Department of Social Security. It supervises the assessment and payment of maintenance for children.

**Child Support
Maintenance**

the amount of maintenance the parent not living with their child must pay.

Chose

an item of property (anything which can be owned).

Chose in action

a right such as a patent, or a right to recover a debt. A chose in action does not physically exist. For example, you cannot touch patents or rights because they have no physical existence.

Chose in possession

an object which physically exists, such as furniture.

Circuit

any of the six legal regions into which the United Kingdom is divided up. Each circuit has its own system to administer the courts within the circuit.

Circuit judge

a judge who presides over (is in charge of) cases in the Crown Court and county courts.

**Circumstantial
evidence**

evidence which suggests a fact but does not prove the fact is true.

Citation

is:

- a summons to appear in court;
- quoting from a completed case to support an argument; or
- a notice sent out by someone wanting grant of probate or letters of administration, asking people to come forward if they object to it.

Citizen's arrest	an arrest by someone who is not a police officer. The offence must be being committed or have already been committed when the arrest is done.
Civil court	a court which does not hear criminal cases. It deals with people's rights such as collection of debts.
Claim	means: <ul style="list-style-type: none"> • to apply for a right; • to demand a remedy; or • an application for something such as a right.
Claimant	the person making a claim.
Clause	a section in a contract.
Clearing bank	one of several major banks which work together to exchange and pay for cheques which their customers have written.
Clerk to the Justices	a solicitor or barrister who helps in court by advising the magistrates.
Close company	a company controlled by five people or fewer, or by its directors.
Closing order	an order prohibiting the use of a house because the house is not fit for humans to live in.
Codicil	extra pages to change a valid will which needs a minor alteration. The codicil must be signed and witnessed and then be attached to the will.
Codifying statute	a statute used to bring together all the strands of the law on a particular subject.
Coercion	a defence that a crime was committed because the person accused was forced to do it.
Collateral	extra security for a debt. If there is a main security for a debt, such as a house being security for a mortgage, any extra security supplied is called collateral.

Commissioner for Oaths	a person appointed by the Lord Chancellor to administer (manage) the swearing of oaths.
Committal for sentence	happens when magistrates have found someone guilty of a crime but they think their sentencing powers are not enough. The magistrates transfer the case to the Crown Court where a higher sentence can be imposed.
Committal for trial	when magistrates look at the evidence in a case and then send the case to be heard in the Crown Court.
Committal order	an order used to send someone to prison for contempt of court.
Committal proceedings	a hearing where magistrates work out if there is enough evidence of a serious crime to justify a trial by jury.
Committee of Inspection	a committee appointed from the creditors of a company in liquidation to oversee the liquidator's work.
Common assault	when someone threatens another person with physical harm, even if they are not touched. This is a less serious type of assault (compare with aggravated assault). Threatening someone with a weapon such as a knife or gun is common assault.
Common duty of care	the duty of the occupier of premises or land to take reasonable care of visitors to make sure that they are kept safe.
Common seal	the seal companies use to authenticate (validate) important company documents. The company's name is engraved on the seal.
Commorientes	closely related people who die at the same time, and it is unclear which of them died first. (This term is Latin.)
Community service order	an order to do work in the community without pay. If someone has been convicted of a crime they may be given a community service order as an alternative to being sent to prison.

Companies House	the office which stores company information such as annual accounts, directors' names and addresses and the registered office address. People who are interested in a company can inspect some of the information stored.
Company secretary	a person appointed by the directors of a company who is responsible for making sure that the company complies with the Companies Acts.
Compensation	money paid to make up for damage or loss caused.
Compensation for loss of office	lump-sum compensation a company pays to an employee whose contract has been ended.
Compensation order	an order by a court to a criminal to compensate the victim of the crime.
Completion	transferring property in exchange for payment. When there is a contract to sell land, there will be an initial payment to confirm the contract. Completion happens when the ownership of the land is transferred to the person buying it, in return for the seller receiving the rest of the purchase price.
Composition with Creditors	an arrangement between a debtor and the creditors. The creditors agree to accept a proportion of what is owed to them in full settlement.
Compulsory purchase	taking land and giving compensation for it. When land is needed for a project, such as a road, local authorities and other public bodies can take the land off the landowner. Compensation has to be paid to the landowner.
Compulsory winding up	the liquidation of a company by order of the court. It usually happens because the company has not been able to pay its bills on time and a creditor has presented to the court a petition for winding up the company.
Concealment	failure by one side negotiating a contract to disclose (reveal) information which the other side would need to consider when deciding whether or not to go ahead.

Concealment of securities	hiding or destroying a document such as a will to gain benefit for yourself or cause other people loss of benefit.
Conclusive evidence	evidence which by law cannot be disputed.
Concurrent sentence	when someone is sentenced for different crimes and The sentences are to be served at the same time.
Condition	a fundamental part of an agreement. The agreement or contract may collapse if a condition is broken.
Conditional agreement	an agreement which depends on a certain thing happening in the future. If the event does not happen the agreement will not start to operate.
Conditional discharge	A court may decide not to punish a criminal immediately for an offence and may conditionally discharge the criminal instead. If the criminal reoffends the court may impose a punishment for the original offence as well as the later ones.
Conditional sale agreement	an agreement by which the seller remains the owner of the goods until all the instalments have been paid and all other conditions have been met.
Condition precedent	something which must happen before a contract starts.
Condition subsequent	something which may happen in the future and, if it does, will affect a contract.
Confiscation order	If someone has been convicted of a crime the court may order the person convicted to pay the court a sum of money. This is called a confiscation order.
Consecutive sentence	when someone is sentenced for different crimes and the sentences have to be served one after another.

Consent	to agree to something. A contract would not be valid unless all the parties consented to it.
Consideration	the price you pay for something.
Consignee	the person goods have been sent to.
Consignor	the person who sent the goods.
Consistory Court	a court for the clergy. There is one in each diocese.
Conspiracy	is: <ul style="list-style-type: none"> • an agreement by two or more people to commit • a crime; or • some people acting together and harming a third party.
Constructive	describing something which may not be set out in the law but will nevertheless be considered to exist.
Constructive dismissal	because the employer has broken fundamental terms of the contract of employment the employee has been forced to resign. The employee can apply for a hearing before an industrial tribunal.
Constructive notice	presuming something is known. The law sometimes presumes that a person knows something even though they do not.
Consumer credit agreement	an agreement by a creditor, such as a bank, to provide up to £25,000 of credit to a consumer.
Contempt of court	the offence of: <ul style="list-style-type: none"> • disobeying a court order; • abusing a judge during a court case; or • interfering in the administration of justice.
Contemptuous damages	tiny damages. Sometimes, even though a case has been won, the court may consider that it should not have been brought to court and will only award tiny damages.

Contingency fee	the claimant's lawyer gets paid the fee only if the case is won by the claimant. The fee is often a proportion of the damages won.
Contingent legacy	a gift in a will which will only be made if certain conditions are met.
Contract	an agreement between two or more people (or groups) to do (or not to do) something. The agreement can be enforced by law.
Contract for services	a contract under which materials and services are provided by a contractor.
Contract of exchange	a contract to exchange goods without money being involved (barter).
Contract of service	the contract between employer and employee.
Contributory negligence	your own carelessness contributing to the damage done to you or your property. When someone suffers damage or injury their claim for damages may be limited if they have contributed to the harm done through their own carelessness.
Conversion	is: <ul style="list-style-type: none"> • exchanging one sort of property for another (such as exchanging money for goods); or • acting unlawfully to deprive someone of their ownership of goods.
Convey	to transfer the ownership of something.
Conveyance	the name of the document which transfers the ownership of land.
Conveyancing	the name for carrying out all the actions needed to transfer the ownership of a piece of land.
Conviction	being found guilty of a criminal offence.
Copyright	a legal right which stops things being copied without permission. If you have the copyright over something

Coroner

(such as a book or music), nobody can copy it or reproduce it without your permission.
a person who investigates the cause of death when a person has suffered a sudden, violent or suspicious death.

Corporate body(or corporation)

a group of people acting together, such as a club. The group has a separate legal identity from the individual members' identities. A company is another example of a corporate body.

Corporation tax

a tax which companies pay on their profits.

Corpus

the name for a body (usually dead). (This word is Latin.)

Corpus delicti

is:

- the body of a person who has been killed unlawfully; or
- the facts which make up an offence.(This phrase is Latin.)

Counsel

a barrister or group of barristers.

Counterclaim

making a claim in court against someone who has already made a claim in court against you.

Counterfeit

something that is forged or copied with the intention of deceiving.

Counterpart

an exact copy of a document.

County court

a court which deals with civil cases such as disputes over unpaid debts and negligence claims. It does not deal with criminal cases.

County court judge

a judge who presides over (is in charge of) cases in the county courts.

Coupon

a dated piece of paper attached to a bond. The coupon has to be surrendered (given back) to get the interest or dividend on the bond.

Court of Appeal

a court which hears appeals against the decisions of other courts.

Court of Protection	a court which administers (manages) the assets and affairs of people who cannot look after themselves, such as people who are mentally ill.
Covenant	a contract or legally binding promise.
Creditor	a person you owe money to.
Creditors' voluntary winding up.	If a company is insolvent (cannot pay its debts when they are due for payment) the members can pass a special resolution to have the company wound up (liquidated). This is called a creditors' voluntary winding up.
Criminal damage	the criminal offence of causing damage to someone else's property either recklessly or intentionally.
Criminal responsibility	When someone reaches the age when the law says they are able to commit a criminal offence they have reached the age of criminal responsibility.
Cross-examine	to question a witness for the other side in a case.
Crown Court	the court where people indicted of criminal offences are tried.
Culpa	blameworthiness or a fault. (This word is Latin.)
Cum dividend	with dividend. If a share is sold cum dividend, the buyer will receive the dividend that was declared just before the share was bought.
Cumulative preference shares	shares which carry forward unpaid dividends. If dividends on these shares have not been paid in previous years the arrears must be paid before a dividend can be paid on the ordinary shares.
Curfew	a court ordering someone to stay at a named place at stated times of the day.
Customs duties	duties which are charged on imports of goods into the UK and on some exports.

D

Damages

the name for money awarded by a court as compensation.

Dangerous driving

a standard of driving which falls far below that of a careful, competent driver and it would be obvious to such a driver that it was dangerous to drive that way. A driver found guilty of dangerous driving would be disqualified from driving by the court.

Debenture

a document issued by a company which acknowledges that some or all of the company's assets are security for a debt (usually to a bank). It is also the name for certain long-term loans to companies.

Debt

money owed.

Debtor

someone who owes you money.

Debt securities

debts which can be bought and sold, such as debentures.

Deceit

when one person deliberately misleads a second person with a statement which causes the second person to do something that causes them damage.

Decree

an order by a court.

Decree absolute

the final court order which ends a marriage.

Decree nisi

a provisional court order which orders that a marriage should be dissolved.

Deed

a legal document which commits the person signing it to something.

Deed of arrangement

a written agreement which can be made, when a debtor is in financial trouble, between the debtor and the creditors. It is intended to benefit the creditors and avoid the bankruptcy of the debtor. The creditors get a proportion of the money owing to them.

De facto

in fact or in reality. (This term is Latin.)

Defamation	making a statement, either orally or in writing, which damages someone's reputation.
Default	failing to do something which had been agreed to.
Defence	the name for the team of people (lawyers and so on) against proceedings brought against someone. It is also in a civil case a written statement (pleading) by the defendant setting out the facts that the defence will rely on.
Defendant	a person defending a court action which has been taken against them.
De jure	rightfully. (This term is Latin.)
De minimis non curat lex	the law will not take account of trifling matters. (This phrase is Latin.)
Dependant	someone who depends on someone else for financial support.
Deponent	a person who swears on oath that a statement is correct.
Deposition	a statement, by a witness, made under oath.
Depreciation	the drop in value of an asset due to wear and tear, age and obsolescence (going out of date), as recorded in an organisation's financial records.
Derogation	damaging someone's rights or entitlements.
Determination	ending an agreement.
Devise	to leave land in a will.
Devisee	the person who is left freehold property or land in a will.
Diminished responsibility	a defence sometimes used for someone charged with murder, that they suffered lowered powers of reasoning and judgement because of their unusual state of mind. If their defence succeeds they will be convicted of manslaughter.

Diocese	the area covered by a bishop's authority.
Diplomatic immunity	immunity given to certain members of foreign embassies, such as ambassadors, for crimes they may have committed.
Direction/directing	judges must give juries instructions on points of law. This is called directing the jury.
Director	a person appointed to help manage a company's affairs.
Disbursement	a payment made by a professional person, such as a solicitor or accountant, on behalf of a client. The money is claimed back by including it on the bill for professional services which is sent to the client.
Discharge	release from: <ul style="list-style-type: none"> • a commitment such as a debt; • a contract because it has finished or the parties agree to end it; or • a punishment for a crime. •
Disclaim/disclaimer	to give up a claim or a right or refuse to take over an onerous (having more obligations than advantages) contract. A disclaimer can also be a notice to limit responsibility.
Discovery	one party in a civil case revealing to the other party the documents relevant to the case under the first party's control and allowing them to be inspected.
Discretionary trust	a trust in which the trustees can decide who will benefit from the trust and how much they will get.
Disposal (dispose of)	selling, transferring or giving away something.
Distrain/distress	to seize goods as security for an unpaid debt.
Divorce	the legal end to a marriage.
Divorce petition	an application for the legal ending of a marriage.
Domicile	the country where your permanent home is, even if

you are living somewhere else for now.

Domiciled

permanently based in a country.

Domicile of choice

the country in which you make your home, intending it to be permanent.

Domicile of origin

the domicile a newborn child has. This is usually its father's domicile or, if the father is dead, its mother's.

Drawee

the organisation which will pay a bill of exchange (such as a cheque). In the case of a cheque, this is the bank that the cheque is drawn on.

Drawer

the person or organisation that has written a bill of exchange, such as a person who has written a cheque.

Duress

threatening or pressurising someone to do something.

Duty

a levy charged by the Government, usually when things are bought, such as shares or buildings.

E

Easement

a right to use someone else's land, such as a right of way.

Enabling legislation

legislation which authorises government ministers or bodies to create detailed rules to accomplish general principles set out in the legislation. For example it may allow a minister to create rules or laws for a particular body, such as the police, to follow.

Endorsement

a change to the original terms of a contract, such as an insurance policy.

Endowment policy

a type of insurance policy which will pay out a lump sum on a fixed date in the future, or when you die if this happens earlier.

Enduring power of Attorney

(in England and Wales)

a power of attorney which takes effect in the future. If a person is capable of dealing with their own affairs at present, they can sign an enduring power of attorney. It will only come into effect when they are no longer capable of looking after their own affairs. It gives authority to the person appointed to act for the person who signed the power of attorney.

(Enduring power of attorney (EPA) was replaced by lasting powers of attorney (LPA) on 1 October 2007. An EPA made before this date is still legal and can still be registered with the Office of the Public Guardian. After this date, you must make an LPA instead.)

Engrossment

preparing the final version of a legal document ready for it to be executed (made valid such as with a signature).

Equitable mortgage

the type of mortgage where the purchaser owns the property which is security for the mortgage.

Escrow

a deed which has been supplied but cannot become effective until a future date, or until a particular event happens.

Estate

is:

- all a person owns at the date of their death; or
- the right to use land for a period of time.

Estimate	an offer to do stated work for a set price.
Estoppel	a rule of law that a person cannot deny something they previously said, if someone else acted on what was said and their position was changed, possibly for the worse, as a result.
Et seq	'and in the following pages'. It is sometimes written in books and documents. (This phrase is abbreviated from the Latin 'et sequeus'.)
Euthanasia	killing someone to end their suffering.
Excess of jurisdiction	someone such as a judge acting without authority.
Exchange of contract	swapping identical contracts. When land is sold, the person selling and the person buying both sign identical copies of the contract and exchange them. The contract is then binding on both of them.
Excise duty	a type of tax levied on certain goods such as petrol. It is also levied on some activities such as gambling and on certain licences for activities (such as driving a car on the public roads).
Exclusions	the things an insurance policy does not provide cover for. They will be listed in the insurance policy.
Exclusive licence	a licence under which only the licence holder has any rights.
Ex dividend	without dividend. If a share is sold ex dividend, the seller will receive the dividend declared just before it was sold.
Execute	to carry out a contract.
Executed	describing a document which is made valid (in the eyes of the law) such as by being signed or sealed.
Executive director	a director who usually works full time as a director of the company.
Executor	a man appointed in a will to deal with the estate, according to the wishes set out in the will. Today it is often used to refer to a woman as well.
Executory	describing something, such as a contract, which has not been started yet.
Executrix	a woman appointed in a will to deal with the estate,

according to the wishes set out in the will.

Exemplary damages

damages given as a punishment for the defendant.

Ex gratia

describing something done or given as a favour rather than a legal obligation. (This term is Latin.)

Ex parte

done by one side only in a case. (This term is Latin. Since April 1999, it is often replaced with 'without notice'.)

Expert witness

an expert in a particular field who is called to give an opinion in a court case.

Ex post facto

describing a law which is retrospective (it affects past acts as well as future ones). (This term is Latin.)

Extradition

the handing over of a criminal to the country the crime was committed in.

Extraordinary general Meeting

a general meeting of the members of a company which is not the annual general meeting.

Extraordinary Resolution

a resolution for consideration by the members of a company at a general meeting of the members.

Ex works

available from the factory. When something is sold ex works the buyer can collect it from the place it was manufactured or from some other place agreed by the buyer and seller.

F

Factor

is:

- someone buying or selling for a commission; or
- an organisation which provides finance for a business by advancing money on the value of the invoices the business sends out.

False imprisonment	wrongfully keeping someone in custody (for example in prison).
False pretence	misleading someone by deliberately making a false statement.
False representation	lying in a statement to persuade someone to enter a contract.
Family Division	the part of the High Court dealing with marriage breakdowns and probate.
Felony	the former term used for serious crimes such as rape or murder. It is still in use in the USA.
Feme covert	a woman who is married.
Feme sole	a woman who is not married or no longer married.
Feu	a lease which lasts for ever.
Feu duty	a yearly charge on a feu (which only applies in Scotland.)
Fiduciary	in a position of trust. This includes people such as trustees looking after trust assets for the beneficiaries and company directors running a company for the shareholders' benefit.
Final judgement	the court's final decision in a civil case.
Fitness to plead	whether or not the person charged is capable of making an informed decision. If, because of mental illness, a person charged with an offence is unable to understand what is going on the person may not be fit to plead guilty or not guilty.
Fixed charge	a charge which provides security for money lent. The charge is over a specific property.
Floating charge	a charge used to provide security for money lent to a company. The charge is over the company's liquid assets (such as stocks and debtors) but it is only triggered by an event such as liquidation.
Forbearance	when one party to an agreement does not pursue rights under the agreement even though the other party has not kept to its terms. An example would be someone not suing to recover an overdue debt.

Force majeure	an event which cannot be controlled and which stops duties under an agreement from being carried out. (This phrase is French.)
Foreclosure	repossessing property. If a mortgagor (the borrower) has failed to keep up the repayments on a mortgage, the mortgagee (the lender) may apply to the High Court for an order that the debt be repaid by a particular date. If the debt is not repaid the property will be repossessed. This procedure is called foreclosure.
Forfeiture	the loss of possession of a property because the tenancy conditions have not been met by the tenant.
Fostering	looking after other people's children. Sometimes children are looked after by people who are not their parents (natural or adopted). It usually happens because the parents cannot look after the children properly because of changed circumstances such as illness.
Fraud	lying or deceiving to make a profit or gain an advantage, or to cause someone else to make a loss or suffer a disadvantage.
Fraudulent conveyance	ownership of land being transferred without consideration and with the intention of defrauding someone.
Fraudulent preference	someone who is insolvent paying one of their creditors while knowing there is not enough money to pay the others.
Fraudulent trading	running a business with the intention of defrauding its creditors or other people.
Freehold	describing land that only the owner has any rights over.
Free of encumbrances	no one else having any rights over something. When property is owned by someone and nobody else has any rights over it, it is owned free of encumbrances.
Frustration	stopping a contract. Sometimes a contract cannot be carried out because something has happened which makes it impossible. This is called frustration of contract.
Futures contract	a binding contract to buy or sell something on a date in the future at a fixed price.

G

Garnishee order	a court order to a third party who owes money to a judgement debtor to pay the money to the judgement creditor.
General damages	damages a court will give to compensate for a wrong done without needing specific proof that damage has been done to the claimant ('plaintiff' before April 1999). The court presumes that losses or damage exist such as in a libel case.
General meeting	a meeting of the members of a company to make decisions about the company.
Grant	proof that you are entitled to deal with a dead person's estate. The grant is issued by the Probate Registry.
Grant of probate	a certificate proving that the executors of a will are entitled to deal with the estate. When a person dies the executors fill in various forms for the Probate Registry. The forms are then sent to the registry together with the will and the death certificate. A registrar examines all the documents and, once satisfied with everything, issues the grant of probate.
Grievous bodily harm	intentionally causing serious physical harm to someone. This is more serious than actual bodily harm.
Guarantee	a promise by a person (the guarantor) to repay a debt owed by a second person if the second person fails to repay it. For example, a guarantee is sometimes required by a bank before it will lend money to a customer.
Guarantee company	a company whose members only have to pay the amount they have agreed to contribute, if the company has to be wound up. They do not have to pay in extra money if there is not enough to pay all the company's debts.
Guarantor	a person or organisation that promises to pay a debt owed by a second person, if the second person fails to repay it.
Guardian	a person appointed formally to look after the interests of a child, or of someone who is not capable of looking after their own affairs.

Guilty a court's verdict that the person charged with a crime committed it.

H

Habeas corpus a writ which can be applied for to order a person's release if they have been imprisoned unlawfully.

Harassment of debtors the illegal act of attempting to collect a debt by threatening, or habitually acting in a way that humiliates or distresses, a debtor.

Harassment of Occupiers the illegal act by a landlord of using, or threatening to use, violence, or interfering with the tenant's enjoyment of the property, in an attempt to repossess the property.

Hearsay evidence evidence given in court of something said to the witness by another person.

Hereditament any property which is capable of being inherited.

High Court (of Justice) part of the Supreme Court. It is split into three divisions called:

- Queen's Bench Division;
- Chancery Division; and
- Family Division.

Hire to pay to borrow something for a period.

Hire purchase a form of credit which allows the purchaser to have possession of the goods shown in the hire purchase agreement. Ownership passes to the purchaser when the fee and all the instalments have been paid.

HM Customs and Excise a government department responsible for administering (managing) value added tax, customs duties and excise duties.

HM Land Registry a registry with offices in towns and cities throughout the UK which keep records of registered land.

Holding company a company which controls another company, usually by owning more than half of its shares.

Hostile witness	<p>a witness who:</p> <ul style="list-style-type: none"> • refuses to testify in support of the people who called them; or • testifies in a way which differs from their previous statement.
House of Lords	the highest court in the UK.
Housing associations	organisations run to provide housing for people. They are not intended to make a profit.
Hypothecation	a person giving a bank authority to sell goods which have been pledged to the bank as security for a loan.
I	
Indict	using legal means, to officially accuse someone of committing an offence.
Indictable offence	<p>an offence which can be tried by jury in the Crown Court</p> <p>.</p>
Indictment	a document setting out the details of the offence a defendant is accused of.
Intangible property	property which does not physically exist, such as a right or a patent.
Interest	a legal right to use property.
Interlocutory Judgement	a provisional judgement. (Since April 1999, this had been replaced with the phrase 'Judgment for an amount and costs to be decided by the court').
Interlocutory Proceedings	the first things to be done before a civil case comes to trial. They include pleading (preparing the formal written statement) and discovery (stating the documents, under one party's control, which are relevant to the case and making them available to the other party) so that there are no surprises when the trial starts.
Interrogatories	in a civil case, formal questions from one side which the other side must answer under oath.

Intestacy/intestate when someone dies without leaving a will. Their estate is divided up between their relatives following the rules set by law.

Intimidation threatening or frightening someone into doing something.

Involuntary manslaughter Death caused by a person who thought they might cause physical but not fatal harm and there was no lawful excuse.

Issue the legal word for:

- children; or
- the matter to be decided by a court action.

Issued share capital share capital which has been allocated to shareholders who have subscribed for (asked for) shares.

J

Joint and several liability two or more people responsible for repaying a debt. They are each responsible individually to repay all the debt as well as being responsible as a group.

Joint lives policy a life assurance policy on more than one person's life. The policy pays out on the first death.

Joint tenancy two or more people having identical shares in land.

Joint will a single will which two or more people make to cover all their estates. Probate has to be obtained on each death.

Joyriding taking a vehicle without permission and using or allowing it to be used without authority.

Judge a person whose job is to adjudicate in court cases. The Crown and the Prime Minister appoint judges. Most are barristers but some are solicitors.

Judge advocate a lawyer who advises a military court which is trying an offence.

Judge Advocate General a lawyer who is in charge of military justice in the British Army and the Royal Air Force.

Judge Advocate General's

Department	a government department which appoints barristers to advise army and air force courts.
Judge Advocate of the Fleet	a lawyer who is in charge of military justice in the British Navy.
(Office of the) Judge Advocate of the Fleet	a government department which appoints barristers to advise naval courts.
Judge in chambers	describes a hearing in front of a judge which is not held in court.
Judgement	a decision by a court.
Judgement creditor	a person who is owed money and who has been to court and obtained a judgement for the money owed.
Judgement debtor	a person who owes the money a court judgement says is owed.
Judgement in default	getting a judgement against you because you failed to do something. If a civil case has gone to court but the defendant does not do something required by the court (such as turn up), judgement for the claimant ('plaintiff' before April 1999) may be given.
Judgement summons	a summons to appear in court to disclose (reveal) income and assets under oath because a judgement debtor has failed to pay the judgement debt.
Judicial discretion	a degree of flexibility about the way courts do things.
Judicial immunity	immunity that a judge normally has from being sued for damages when acting as a judge.
Judicial precedent	Lower courts have to follow the decisions of higher courts. This is called judicial precedent, binding precedent or precedent.
Judicial separation	a court order that two married people should live apart.
Junior barrister	a barrister who is not a Queen's Counsel.

Jurisdiction

is:

- the territory in which a court can operate;
- the power it has to deal with particular cases;

or

- the power it has to issue orders.

Juror

one of the people who are acting as a jury.

Jury

a group of people (usually 12) who review all the evidence in a court case and then come to a verdict.

Jury service

serving on a jury. Most people between the ages of 18 and 70 can be required to serve on a jury.

Just and equitable winding up

a winding up ordered because fairness cannot be achieved for all the members of a company.

Justice of the Peace (JP)

a person appointed by the Crown to act as a magistrate.

Justification

claiming that a defamatory statement is true. In a defamation case a defendant may admit that the claimant ('plaintiff' before April 1999)'s allegations are true but plead that the statement which defamed was true.

Justifying bail

proving to the court that the person giving the surety has the assets to pay the bail.

Juvenile offender

a person aged between 10 and 17 who has committed a criminal offence.

K

Kerb crawling

the offence committed in a street or public place by a man in a motor vehicle (or near a vehicle he has just got out of) who approaches a woman for sexual services in return for money.

Kidnap

to take someone away by force against their will.

Knock for knock

an agreement between insurance companies that they will pay for their own policyholders' losses regardless of who was to blame.

Know-how

the expertise in an organisation which may be protected by a patent.

L

Land

includes:

- the buildings built on the land;
- the subsoil;
- the airspace above the land necessary for ordinary use of the land; and
- property fixed to the land.

Lasting powers of attorney (in England and Wales)

There are two types of lasting powers of attorney (LPA):

- health and welfare; and
- property and financial affairs.

If a person is capable of dealing with their own affairs at present they can make either or both types of LPA.

A finance LPA can be used as soon as the Office for the Public Guardian has registered it. But, a health and welfare LPA can only be used when the person can no longer look after their own affairs.

A lasting power of attorney gives another person authority to act on your behalf.

Lawsuit

a claim made in a court of law.

Leading question

a question which:

- suggests the answer to be given; or
- assumes things to be true which in fact are disputed.

Lease

a contract between the owner of a property and a tenant, giving the tenant sole use of the property for an agreed time.

Leasehold

property held by a tenant with a lease.

Legacy

a gift left to someone in a will, but not including land.

Legal aid scheme

a scheme for paying legal costs out of public funds for people who cannot afford to pay for them.

Legatee

the person who receives a legacy.

Lessee

the person a property has been leased to.

Lessor

the person who lets a property by lease.

Letter of credit	a letter one bank sends to a second bank asking them to pay money to a named person.
Letters of administration	an authority the courts give to a person to deal with a dead person's estate. It is given when someone dies intestate.
Liabilities	the debts that a person or organisation owes.
Liability	a debt or obligation.
Libel	a false statement made in writing or in some other permanent record (such as a film).
Licence	an authority to do something.
Licensed conveyancer	a person authorised to do conveyancing (but not including solicitors).
Licensee	the holder of a licence to do something.
Lien	the right to keep possession of something owned by someone who owes a debt, until the debt has been settled.
Life assurance policy (or life insurance policy)	a contract between the policyholder and the insurance company. The insurance company pays out if the policyholder dies.
Life assured	the person whose life is assured by a life assurance policy.
Life imprisonment	a sentence given to a criminal to be imprisoned for the rest of their life (though the Home Secretary may release them early on parole).
Life interest	an interest which will pass to someone else when the present owner dies.
Life tenant	someone entitled to use property for the rest of their life.

Limited company	a company which limits how much its members will have to pay if the company is wound up. The members of most limited companies will only have to pay any money unpaid on their shares. If a company limited by guarantee is wound up, the money its members have to pay is limited to the amount shown in the memorandum of association.
Liquidated damages	damages agreed beforehand by the parties to a contract in case one of them should later break the terms of the contract.
Liquidation	the process of winding up a company by disposing of its assets, paying its creditors in a strict order of priority and distributing any money left among the members.
Liquidator	the person appointed to wind up a company.
Litigant	a person involved in a lawsuit.
Litigation	taking legal action through the courts.
Loan capital	money borrowed by an organisation.
Loan creditor	a person or organisation which has lent money to an organisation.
M	
Magistrate	a Justice of the Peace who presides over (is in charge of) minor cases heard in the magistrates' court.
Magistrates' court	the lowest court. The things it deals with include minor criminal cases, most criminal cases involving 10- to 17-year-olds, issuing alcoholic drink licences and hearing child welfare cases.
Maintenance	money paid (and things paid for) to support a partner (husband or wife) and children when a marriage has failed.
Majority	the age when a person gains full legal rights and responsibilities. In the UK it is when a person becomes 18 years old.
Male issue	male descendants (sons only) of men.
Malfeasance	an unlawful act.

Malice	intending to do something which is against the law.
Malice aforethought	planning to kill someone or intending to do something which is likely to kill.
Malicious falsehood	a written or spoken lie told to harm somebody and which does do harm.
Malicious prosecution	a prosecution which is brought unreasonably.
Mandate	an authority to act given by one party to another. An example is when a bank's customer writes instructions on the mandate for the bank to follow when operating the customer's account.
Manslaughter	killing someone illegally but by accident. (See also Involuntary manslaughter and Voluntary manslaughter)
Market overt	a lawful market in which, as long as someone buying goods is not aware that they do not belong to the seller, the buyer will get a good title to the goods.
Martial law	government of a country by the military.
Master of the Rolls	the person in charge of: <ul style="list-style-type: none"> • the Civil Division of the Appeal Court; and • admitting solicitors to the roll of solicitors in practice.
Material facts	facts which are a key part of a defence or a claim.
Matricide	the killing of a mother by her son or daughter.
Matrimonial causes	the court proceedings: <ul style="list-style-type: none"> • to divorce people; • to separate a married couple; or • to dissolve a marriage.
Matrimonial home	the house that a husband and wife live in as a married couple.
Mediation	help from an independent person (a mediator) to solve differences between a husband and wife whose marriage has broken down. The mediator helps them to agree what should be done about their children, money and so on.

Memorandum and articles of association

The memorandum gives details of a company's name, objects (purposes) and share capital. It also sets out the limits of the shareholders' liability if the company has to be wound up. The articles set out the members' rights and the directors' powers.

Mens rea

the intent to commit a crime and also the knowledge that an act is wrong. (This term is Latin.)

Mercantile law

the branch of the law dealing with commerce.

Merchantable quality

the assumption in the law that goods sold by a business will be fit for their purpose.

Mesne profits

income lost by a landlord because the property is occupied without the landlord's permission. An example would be a tenant failing to leave the property when the tenancy finished.
It is also the profits lost by a landowner when wrongly deprived of the use of his or her land.

Messuage

a house together with its land and outbuildings.

Minor

someone who has not yet reached the age when they get full legal rights and responsibilities. In the UK this is a person under 18 years old.

Minority

being under the age of full legal rights and responsibilities.

Minutes

a record of the meetings held by members and directors of companies.

Misadventure

an unexpected accident which happens while lawfully doing something.

Miscarriage of justice

the court system failing to give justice to someone.

Misconduct

deliberately doing something which is against the law or which is wrong.

Misdirection

a judge instructing a jury wrongly.

Misfeasance

when:

- something is done badly even though it is still legal; or
- a company officer does something which is a breach of trust or a breach of duty.

Misrepresentation

a lie told to persuade someone to enter into a contract.

Mistrial	a trial that has been made invalid.
Mitigation	putting facts to a judge, after someone has been found guilty, to justify a lower sentence.
Molest/Molestation	behaviour by a person which annoys or greatly troubles their children or spouse. The behaviour can include violence, verbal threats and written threats.
Money laundering	making money from crime and then passing it through a business to make it appear legitimate.
Moratorium	an agreement not to take action to recover a debt for an agreed period of time.
Mortgage	using property as security for a debt. It is also the name for the contract which is signed by the borrower and lender when money is lent using property as security for a loan.
Mortgagee	the lender of the money which is secured by a mortgage.
Mortgagor	the person who borrows the money to buy a property. The lending is secured with a mortgage of the property.
Motive	a reason for a person doing something.
Muniments	documents which are evidence of a right to something.

N

Naked trust	a trust which holds property for a person until they ask the trustee to return it.
Naturalisation	giving a citizen of one country citizenship of another.
Negligence	lack of proper care to do a duty properly.
Negligent	lacking proper care to do a duty properly.
Negotiable instrument	<p>a document which:</p> <ul style="list-style-type: none"> • is signed; • is an instruction to pay an amount of money; • can have its ownership changed by changing the name it is paid to; and • can have its ownership changed simply by being

delivered to its next owner.

Next of kin

a person's closest blood relatives.

Nondisclosure

the failure by one side to a contract to disclose (reveal) a fact to the other side that would influence their decision to go ahead with the contract.

Non-exclusive licence

an agreement giving someone the right to use something but which does not prevent other people being given similar agreements.

Notary

a person (usually a solicitor) who is authorised to certify documents, take affidavits and swear oaths.

Not guilty

a court's verdict that the person charged with a crime did not commit it. When criminal court cases start the defendants are asked for their pleas. If they want to deny they committed the offence they plead not guilty.

If a court's verdict is that the prosecution has not proved the defendant committed a crime, the defendant has been found not guilty.

Notice

a warning of something which is about to happen.

Notice to quit

a notice to end a tenancy on a stated date. It is usually sent by the landlord to the tenant although the tenant can also send one to the landlord.

Not negotiable

cannot be transferred. If a bill of exchange is marked not negotiable it cannot be transferred to someone else.

Novation

replacing an existing agreement with a new one.

Nuisance

doing something that harms other people's rights.

O

Oath

swearing the truth of a statement.

Objects clause

a clause which forms part of a company's memorandum of association It sets out the purposes the company was formed for.

Obligation

a legal duty to do something.

Obligee

someone who, under a contract, receives money or has something done.

Obligor	someone who is bound by a contract to pay money or do something.
Obstruction	a motoring offence involving: <ul style="list-style-type: none"> • leaving a vehicle or other obstruction in a road; or • driving in a way which inconveniences other road users.
Occupation	taking control of a piece of land which belongs to someone else.
Occupational pension Scheme	a pension scheme organised by an employer for its employees.
Occupier	the person who is in control of a piece of land, such as a tenant.
Offensive weapon	an object that is intended to physically injure someone.
Offer	a promise to do something, or not to do something. If the promise is accepted it becomes legally binding.
Offeree	the person who receives the legally binding offer.
Offeror	the person who makes the legally binding offer.
Official receiver	the person appointed to act as a receiver in bankruptcies and company winding-up cases. The Department of Trade and Industry appoints official receivers.
Official secret	information which the Government classifies as confidential. It is a criminal offence to disclose an official secret without permission.
Official Solicitor	an officer of the Supreme Court whose duties include acting for people who cannot act for themselves, such as children or people with mental health problems.
Omission	a failure to do something.
Oppression	the offence of public officials using their official positions to harm or injure people.
Option	a type of contract under which money is paid for a right to buy or sell goods at a fixed price by a particular date in the future.

Order	an instruction by or command of a court.
Order in Council	an order given by the monarch (King or Queen) after taking advice from the members of the Privy Council.
Originating summons	a summons that sets out the questions the court is being asked to settle. When the facts in a case are not disputed, but the interpretation of the law or of the documents needs to be resolved, an originating summons is prepared.
Outlaw	formerly, a person who was not protected by the law.
Overt act	an act done openly and from which the criminal intention of the act is clear.
P	
Panel	the list of people who have been summoned for jury service.
Pardon	releasing someone from a court's punishment. The Crown has the right to alter, cancel or reduce the penalties imposed by the courts.
Pari passu	equally. (This term is Latin.)
Parole	release from prison early. If someone is given parole they may be returned to prison if they offend again.
Party	the claimant ('plaintiff' before April 1999) or defendant in a lawsuit. It is also someone who has taken out a contract or agreement.
Passing off	pretending that the goods and services offered are those supplied by another business.
Patent	an official right for a specified period of time to be the only person (or organisation) to make or sell something.
Patricide	the killing of a father by his own son or daughter.
Pawn	to pledge goods as security for a loan.
Payee	the person money is being paid to.

Payment into court	money paid to the court by the defendant for payment to the claimant ('plaintiff' before April 1999).
Penalty	is: <ul style="list-style-type: none"> • a sum of money which has to be paid if the terms of a contract are broken; or • a punishment given to someone who commits a crime.
Penalty points	points given by a court as punishment for driving offences. If enough penalty points have been collected the offenders may have their driving licences taken off them.
Per	through or by. (This word is Latin.)
Performance	doing what is required under a contract.
Perjury	lying to a court after you have been sworn in.
Perpetuity	forever. The law prevents property being tied up in perpetuity because it could stop owners disposing of it.
Per pro	on behalf of. (This term is Latin.)
Per quod	in accordance with or whereby. (This term is Latin.)
Per se	in itself or by itself. (This term is Latin.)
Personal guarantee	a pledge, by a person to a bank, to repay a debt owed to the bank if the bank's customer fails to pay it.
Personal injury	an injury caused to a person.
Personal property	all property except land.
Personal representative	a person who is appointed to deal with a dead person's estate. If there is a will, the executors appointed will be the personal representatives. If there is no will, the courts will appoint someone called the administrator.
Personalty	another word for personal property.
Personation	pretending to be someone you are not.

Per stirpes	describes property divided equally between the offspring. If a parent who is a beneficiary under a will dies and the legacy goes to the children in equal shares, the legacy has been divided per stirpes. (This term is Latin.)
Perverting the course of justice	doing something to interfere with the justice system (such as misleading the court or intimidating witnesses).
Plaintiff	the person who goes to court to make a claim against someone else. (Since April 1999, this term has been replaced with 'Claimant'.)
Plea	the defendant's answer to the accusations.
Plea bargain	when the defendant pleads guilty instead of not guilty in return for a concession by the prosecution (such as dropping another charge).
Plead	to declare to the court whether you are guilty or not guilty.
Pleadings	statements of the facts prepared by both sides in a civil case. Each side gives the other its pleadings so that they are both aware of what arguments will be used during the trial. (This term was replaced with 'statement of case' in April 1999).
Pledge	letting someone take possession of goods but the ownership does not change. It is often done to give security for money owed or to make sure that something is done as promised.
Plenipotentiary	someone who has been given complete authority to act.
Poaching	taking game from someone else's land without permission.
Polygamy	being married to more than one person at once.
Possess	to have property under your control.
Possession	having something under your control even though you may not own it.

Possessory title	gaining title through possession. If you have possession of something for a long time you may gain title to it even though you do not have documents to prove that it is yours.
Post-mortem	the examination of a dead body to establish the cause of death.
Power of appointment	a person giving a second person the power to dispose of the first person's property.
Power of attorney	a document which gives power to the person appointed by it to act for the person who signed the document.
Practising certificate	certificates showing a person is entitled to practise law. Every year the Law Society issues these certificates to the solicitors who can practise law.
Preamble	an explanation of a proposed law. At the beginning of each Act of Parliament there is an explanation of what the Act is intended to achieve.
Precedent	Lower courts have to follow the decisions of the higher courts. This is called precedent, binding precedent or judicial precedent.
Precept	an order given by an official body or person. It is used: <ul style="list-style-type: none"> • by a county council to tell a body to levy (charge) rates for the benefit of the county Council; • by a sheriff to call an election; or • to order payment of a sum of money, such as by a writ or a warrant.
Pre-emption	the right to buy property before others are given the chance to buy.
Preference	when insolvent, paying one creditor while leaving other creditors unpaid.
Preference shares	a share entitled to a fixed dividend. Holders of preference shares are treated more favourably than ordinary shareholders. The preference dividend is at a fixed rate and must be paid in full before a dividend can be paid on the ordinary shares. When the company is wound up the preference shares must be fully paid out before the ordinary shareholders can be paid.

Preferential creditor

a creditor who has to be paid in full before unsecured creditors can be paid anything.

Prima facie

on the face of it. (This term is Latin.)

Principal

is:

- someone who authorises another person to act for them;
- the actual person who committed a crime; or
- an amount of money lent or invested, not including the interest.

Privilege	special rights which some people have because of the job they do or their special status. For example, diplomats of foreign countries are immune from arrest in the UK.
Privity of contract	only the parties to a contract can sue each other over breaches of contract.
Privy Council	a body of people appointed by the Crown. Its members include members of the royal family, present and former cabinet ministers and people who hold or have held high office. Its main duties are advising the Queen.
Privy Purse	money given to the Crown for royal household expenses.
Probate	authority to deal with a dead person's estate. When someone has died and left a will, the executors of the estate apply to the court for this authority.
Probate Registry	a registry which deals with the forms which are needed when someone applies for probate.
Probation	If a court convicts someone of an offence, the court may order that the offender is supervised by a probation officer for a period of at least six months but for no more than three years. This is known as probation and it is an alternative to sending the person to prison.
Process	In law a process is: <ul style="list-style-type: none"> • a summons or writ which is used to order someone to appear in court; • the whole of a case from beginning to end; or • the total number of summonses or writs issued during a case.
Procurator	a person who has been given authority to manage another person's affairs, such as under a power of attorney.
Procurator fiscal	under Scottish law, a person who acts as public prosecutor and coroner.
Product liability	the liability of manufacturers and sellers to compensate people for unsafe goods which have caused injury to people or property.

Promisee	a person who has been promised something.
Promisor	a person who has promised something.
Promissory note	a written promise to pay an amount of money to someone at a given time.
Property	the name for anything which can be owned.
Pro rata	in proportion. For example, if 10 items cost £100 you would expect three items to cost £30 if they were priced pro rata. (This term is Latin.)
Prosecution	the name for the team of people (lawyers and so on) bringing proceedings against someone else. Also when legal proceedings are taken against someone it is called a prosecution.
Prosecutor	the person who brings legal proceedings, on behalf of the Crown, against the accused.
Prospectus	a formal document giving details of a company's past performance and of its plans for the future. If a public company wants people to invest in it, it prepares a prospectus.
Prostitution	selling sexual services for money.
Protected tenancy	a tenancy agreement for a house. It gives the tenant the right to a fair rent and protection from eviction as long as the terms and conditions of the tenancy agreement are kept to.
Proviso	a clause in a legal document which qualifies another section of the agreement.
Provocation	causing someone to lose their self-control by doing or saying something (such as threatening to harm a baby) which would cause a reasonable person to temporarily lose their self-control.
Proxy	a person appointed by a shareholder to go to a meeting of shareholders. The proxy can vote at the meeting for the shareholder.
Proxy form	a form for shareholders by which, if it is delivered to a company at least 48 hours before the shareholders' meeting, the person who is the proxy will be able to vote at that meeting.
Public mischief	something that someone does which damages the general community.

Public nuisance a crime by which the general public is put in danger or suffers damage to its health, property and so on.

Putative father the man found by a court to be the father of an illegitimate child.

Q

Qualifying child when used in connection with Child Support this means a natural child or adopted child who is under 16, or under 19 if receiving full-time education.

Quango an organisation set up by the Government to do a particular activity. It is partly independent and does not form part of the Government.

Quarter days in England the days when payments which are made every quarter should be paid. The quarter days are the days that the seasons are said to start. The actual dates and their names are:

- 25 March - Lady Day;
- 24 June - Midsummer Day;
- 29 September - Michaelmas Day; and
- 25 December - Christmas Day.

Queen's Bench Division part of the High Court. Its main function is to deal with civil cases.

Queen's Counsel (QC) a barrister who has been chosen by the Lord Chancellor to serve as counsel to the Crown. A Queen's Counsel is more senior than other barristers.

Queen's evidence evidence for the prosecution given by someone who is also accused of the crime being tried.

Quiet enjoyment allowing a tenant to use land without interference. When a tenancy is created the landlord is expected to allow the tenant to use the land without any interference, unless the tenancy agreement allows it.

Quiet possession using property without interference. When property is sold the buyer should be able to use the property free from interference by the seller.

Quorum the lowest number of qualifying people needed for a meeting to be able to make a decision.

R

Racial discrimination treating someone less favourably because of their race, colour, nationality or culture.

Rack rent the full market value rent of a property.

Rape having sex with a person without their permission (such as if they were asleep or unconscious) or forcing them to have sex against their will.

Real relating to immovable property such as buildings or land.

Real estate land owned by someone who has died. In the USA it is also land and buildings used for business purposes.

Real property land and buildings, minerals in the land and rights over the land.

Realty another word for real property.

Reasonable force necessary force. Reasonable force is a complex issue but essentially use of some force must be necessary to defend your property or yourself and the force used must be in proportion to the threat.

Receiver someone appointed to:

- sell assets to raise money to repay lenders; or
- protect property.

Receiving gaining control of stolen property.

Recognisance an undertaking, given by someone to a court, to make sure that they do what the court requires. If they do not do as the court wishes they may have to pay a sum of money.

Record the documents in a court case from beginning to end.

Recorder	a part-time High Court judge.
Recovery	regaining possession of land by taking court proceedings.
Redemption	paying off all the money borrowed under an agreement.
Redundancy	being dismissed from a job because it no longer exists.
Registered land	any land recorded at the Land Registry. There is a system of recording and registering, at the Land Registry offices, details of land ownership and interests in land.
Registered office	the official address where documents can be served on a company.
Also, the company's registers can be inspected at the registered office.	
Registrar of Companies	an official in charge of the office which keeps records of registered companies. There is a registrar for Scotland and another one for England and Wales.
Reinsurance	an insurance company insuring part of a risk it is covering. If an insurance company has taken on a large insurance contract it may decide to spread the risk of loss by insuring part of the risk with another insurance company.
Release	means: <ul style="list-style-type: none"> • to give up a valid claim against someone; • to free someone from prison; or • a document used to cancel a claim one person has against another.
Remainder	an interest which starts when a previous interest finishes. When more than one person has been left an interest in land the first person to possess an interest will have to die before the next person can possess an interest in the land, and so on.

Remand	being kept in prison or paying bail. If an accused person is placed on remand they are either kept in prison for a short period or have to pay bail or get someone to pay it for them. It is used for short periods before a trial starts.
Remedy	using the law to get compensation for damage done or for rights infringed. Also, a remedy can be using the law to prevent something from happening.
Renouncing probate	a proposed executor refusing to act. Sometimes when a testator dies an executor will not wish to accept appointment. The executor has to tell the Probate Registry about it in writing.
Rent	a regular payment to the landlord by a tenant in return for being allowed to possess and use the landlord's property.
Repeat offender	a person who continues to commit the same offence.
Reply	a claimant ('plaintiff' before April 1999)'s answer to a claim. In a civil case the defendant may offer a defence to the claim, or even make a counterclaim.
Repossession or Repossess	a mortgagee recovering vacant possession of the property mortgaged.
Representation	Is: <ul style="list-style-type: none"> • acting on behalf of someone else (such as a solicitor acting for a client); • taking someone else's place (such as when a court gives an executor the right to deal with a dead person's affairs); or • a statement in a contract.
Representative action	one or more people, in a group of people with the same grievance, taking legal action representing the group.
Reprieve	a judge suspending or cancelling punishment for an offence.
Rescission	the cancellation of a contract.
Reservation of title	a contract which leaves ownership of the goods with

	the seller until the goods have been paid for.
Reserves	money set aside in accounts which can be spent in later years. Some types of reserve can only be spent if certain conditions are met.
Residence order	an order which a court issues when it has decided where a child should live, setting out details of the court's decision.
Residuary legacy	what remains to be given out from an estate after all debts, taxes and specific legacies have been paid.
Residue	what is left of an estate after all debts, taxes, expenses and specific legacies have been dealt with.
Res ipsa loquitur	proof is not needed because the facts speak for themselves. If the defendant was in charge of events and an accident was caused on the face of it by negligence, then it may be presumed that the defendant was negligent unless there is evidence to the contrary. (This term is Latin.)
Resisting arrest	a person trying to prevent the police arresting him or her. A charge could be made of obstructing a police officer in the course of duty.
Resolution	a decision taken by the members of a company in a meeting.
Respondent	the person an action is being taken against.
Restitution	is: <ul style="list-style-type: none"> • an order for the return of stolen goods to the victim of the theft or for compensation to be paid to the victim; or • a writ, following a successful appeal, for the return of the items lost after the original case.
Restraining order	an order which a court may issue to prevent a person from doing a particular thing. For example, if someone has been harassing another person, the court may order that the harassment must stop.
Restriction	when placed on a piece of land the owner cannot sell or mortgage the land.

Restriction order	This order by the Crown Court prevents a person being discharged from hospital, to protect the public.
Restrictive covenant	a deed which restricts how a piece of land can be used.
Retainer	a payment to a barrister to act in a case.
Retention of title	another term for reservation of title.
Reversion	
Revocation	cancellation.
Revoke	to cancel or withdraw.
Revolving credit Agreement	a loan agreement under which a person can borrow again to top up the loan, as long as they do not go over their credit limit.
Right of way	a legal right obliging the owner of land to allow authorised people to cross it.
Rights issue	an issue of extra shares by a company. Existing shareholders can buy extra new shares in proportion to the shares they already hold. The shares are usually on sale at a lower price than the stock market price to encourage shareholders to buy. The shareholders can sell the rights if they do not wish to use them.
Riot	a gathering of 12 or more people using, or threatening to use, violence to achieve a common end.
Robbery	using or threatening to use force while carrying out a theft.
S	
Sale or return	an arrangement under which goods can be kept by the potential buyer for a period while their resale is attempted. Unsold goods can be returned if the conditions of the contract have been kept to and the buyer pays for the goods used.

Salvage	compensation paid by the owners for saving ships, aircraft and property from the sea.
Satisfaction	is: <ul style="list-style-type: none"> • paying a debt; • settling an obligation by an act; or • settling an obligation by substituting something satisfactory for what was originally required.
Scheme of Arrangement	an agreement between a person with debts, who cannot pay them when they are due, and the creditors. The creditors share the money the debtor manages to pay in proportion to what they are each owed.
Scrip	a certificate showing the extra shares and fractions of shares the owner is entitled to.
Scrip dividend	a dividend paid in shares instead of cash.
Scrip issue	free shares offered to the members of a company in proportion to their shareholdings.
Search	inspection of the registers maintained by organisations such as the Land Registry. When a person intends to buy a property such as a house, a solicitor arranges the inspection. This is to find out if there is any adverse information about the property or the surrounding area.
Search warrant	a warrant issued by a magistrate, or High Court judge, to allow police officers to search premises.
Securities	stocks, shares, debentures and so on where there is a right to receive interest or dividends from the investment.
Security	something of value pledged to a bank by a borrower. If the borrower fails to repay the debt, the bank can sell the security and repay the debt out of the proceeds of the sale.
Security of tenure	protection from a landlord attempting to obtain possession of the property the tenant is renting.

Sedition	writing things or saying things which encourage ordinary people to rise up against the Government or which cause discontent.
Sentence	the penalty the court imposes on someone found guilty of an offence.
Separation order	a court order that a husband and wife can live separately if they wish.
Sequestration	a court order for the seizure of someone's property.
Settle	means: <ul style="list-style-type: none"> • to create a settlement; • to end a case by agreement; or • to draw up a contract and agree its terms.
Settlement	when property is bestowed, usually by a will or a deed, on a trust for the benefit of people decided by the settlor. It also means voluntarily agreeing to settle a civil case.
Settlor	the person who gives property to a settlement.
Several	separate (not joint).
Shadow director	a person who has not been appointed a director of a company but nevertheless gives instructions to the directors, which they comply with.
Share capital	the money invested directly in a company by its members. When the shares are first made available by the company, people can apply to buy them. The company states the price it wants for the shares.
Share certificate	a document which certifies who owns shares in a Company. It gives the type and number of shares owned by the shareholder and lists the serial numbers of the shares.
Share premium Account	an account in a set of books recording the extra amount over face value that shares have been issued for. If shares are issued for more than their face value, the extra amount over face value is called a share premium.

Sheriff	someone appointed each year by the Crown to be a county's senior officer. Each county in the UK has a sheriff. To be eligible for the office the person must own some land in the county. The areas of the law which come within the sheriff's jurisdiction are largely dealt with by the under-sheriff.
Shoplifting	stealing goods from a shop.
Shorthold tenancy	a tenancy under which the law allows the landlord to repossess the house.
Sine die	indefinitely. If a case has been adjourned sine die no date has been set for it to be continued. (This term is Latin.)
Slander	saying something untrue about a person or doing something, such as making a gesture, which damages their reputation.
Small claims court	a section of the county court which deals with small claims. There is a simplified way of making a claim in the county court in a civil case where the claim is for no more than £5000 (or £1000 in personal injury cases). Neither side can claim costs.
Smuggling	importing or exporting goods illegally to avoid a ban on them or to avoid the duties on them.
Sold note	a note that shows details of investments which have been sold, including the sale price and any charges taken. Stockbrokers produce sold notes for their clients.
Soliciting	a prostitute attempting to get clients in a street or other public place.
Solicitor	a person who can deal with legal matters for the public and give advice on legal matters. All solicitors are listed on the roll of solicitors kept by the Law Society. Some solicitors can appear for their clients in some of the lower courts.
Solicitor General	the assistant of the Attorney General. They both advise the Government.

Special resolution	a resolution which must be approved by holders of at least 75% of the shares with voting rights. (Some types of share give their owners the right to vote at shareholder meetings, but there are other types which do not.)
Specific performance	a court order to complete a contract. The courts may order a person who has failed to fulfil an obligation under a contract to complete it.
Spent conviction	a conviction which, after the passage of a stated time period, does not have to be disclosed (revealed) to a court.
Squatter	a person who occupies land illegally.
Stalking	the name given to a form of harassment where a person is made to feel alarmed or distressed by another person's actions. The prosecution has to prove that a reasonable person would have known that the behaviour would create distress or fear. The harassment must have happened on at least two occasions.
Stamp duty	a tax on the transfer documents for certain types of transaction. Examples are buying shares, patent rights and properties.
Statement of claim	the claimant's written statement setting out the claim in a civil case. (This term has not been used since April 1999.)
Status	how the law regards a person, such as whether the person is a minor or a bankrupt and so on.
Statute	an Act of Parliament.
Statute book	all the existing statutes in a country.
Statute law	the law created by Acts of Parliament.
Statute of limitation	a statute which sets out the time limits within which a court action must take place.
Statutory accounts	company accounts which have been filed with the Registrar of Companies. The accounts have to disclose (show) the information required by the Companies Acts.

Statutory audit	an audit required by law. Certain companies have to have their accounts audited by suitably qualified accountants.
Statutory books	books of account which companies must keep by law to show and explain all their transactions.
Statutory demand	a written demand for payment of a debt of more than £750.
Statutory instrument	a power delegated by Parliament. Parliament can delegate its power to make and amend law to a person or organisation. A statutory instrument is one of these powers and is used by government ministers to amend legislation.
Stay of execution	the suspension of the carrying out of a court order.
Stipendiary magistrate	a magistrate who gets a salary.
Stockbroker	a person who buys and sells stocks and shares for clients.
Subduct	to withdraw.
Subject to contract	an agreement which is not binding until a contract has been signed.
Sub judice	describes something being dealt with by a court which cannot be discussed outside the court. (This term is Latin.)
Subpoena	a writ requiring the person it is addressed to to attend at a specific place (such as a court) on a specific date and at a stated time.
Subrogation	substituting one person for another including all rights and responsibilities.
Subscribers	the people who set up a limited company.
Subsidiarity	subsidiary activities. Member countries of the European Community agreed that activities could be done by the individual member countries unless they could not do them adequately alone. The European Community therefore should only do subsidiary activities and this is called subsidiarity.

Subsidiary	a company controlled by another company. The control is normally a result of having more than 50% of the voting rights.
Sue	to start legal proceedings in the civil court against someone.
Suicide	the act of killing oneself intentionally.
Sui generis	describes something that belongs in a particular category or is the only one of its class. (This term is Latin.)
Sui juris	describes someone who can enter into a contract without any restriction. (This term is Latin.)
Suit	proceedings brought by one person against another in a civil court.
Summary judgement	obtaining judgement without a trial. In an action in the High Court to recover damages or a debt, if the claimant ('plaintiff' before April 1999) swears an affidavit that it is believed that there is no defence to the claim, the claimant ('plaintiff' before April 1999) can obtain summary judgement.
Summary offence	an offence that can only be tried by magistrates. Most minor offences are summary offences.
Summary proceedings	a trial by magistrates, where the defendant has the right to choose which court should hear the case, but has agreed to be tried in the magistrates' court.
Summary trial	a trial by magistrates.
Summing up	the judge's summary of a case. At the end of a trial by jury the judge explains points of law in the case to the jury, explains the jury's role and summarises the evidence.
Summons	an order by a court that a person attend at a particular court at a stated time on a particular date.
Superior courts	the higher courts in English law, which include the High Court, the Court of Appeal, the Crown Court and the House of Lords. Their decisions act as precedents for the lower courts to follow.

Supervision order	a court order that a child should be supervised by a probation officer or a local authority.
Supra	above (see above or before in the document). (This word is Latin.)
Supreme Court	<p>the highest court below the House of Lords. The full name is the Supreme Court of Judicature. It is divided into:</p> <ul style="list-style-type: none"> • the Crown Court; • the High Court of Justice; and • the Court of Appeal.
Surcharge	a penalty charged if tax is paid late. It is also an extra charge banks make if customers do not keep to the agreements they made with the bank.
Surety	someone who takes responsibility for someone else's debts or promises, and guarantees that they will be paid or undertaken (done). It is also the name for the money put up as security that someone will appear in court. If they do not appear in court the money will be forfeited.
Suspended sentence	a sentence that is postponed until the offender is convicted of another offence.
SWIFT payment	a payment from one bank account to another using the SWIFT system. SWIFT stands for Society for Worldwide Interbank Financial Telecommunications and it is an international system for paying by credit transfer.

T

Tangible asset	an asset which can be physically touched.
Tangible property	property that physically exists.
Tax	money raised by the Government to pay for the services it provides. Some taxes are called indirect because they are part of the price we pay for goods and services, such as VAT. Other tax is called direct because the individual taxpayer pays it. Income tax and corporation tax are examples of direct taxes.
Taxable supply	a term for supplying goods and services on which value added tax can be charged. This applies even if the tax rate is 0% at present, because it can be increased if the Government chooses to.
Taxation	the levying of taxes.
Taxation of costs	the scrutiny of and, if necessary, the lowering of a solicitor's bill to a client. The scrutiny is done by a court officer.
Tax avoidance	reducing tax bills by using legal means.
Tax evasion	breaking the law to reduce tax bills, such as by concealing income.
Tax point	the date when value added tax arises on goods or services supplied (or made available) to a customer. The tax point should be displayed on invoices. It is not necessarily the same as the date of the invoice.
Teeming and lading	a term used to describe attempts to hide the loss of cash received from one customer by using cash from other customers to replace it. This fraud can carry on by using cash from other customers in the same Way
Tenant	a person or organisation granted a lease.
Tender	supplying a price for a job. If an organisation asks firms to send in tenders for supplying something, they are asking for firm written offers to do the work to an agreed standard and at a stated price.
Tenure	how a piece of land is held by the owner (for instance freehold or leasehold).

Term	any of the clauses which form part of a contract.
Terra	land. (This word is Latin.)
Terrorism	using violence for political purposes.
Testament	a will dealing with personal property.
Testamentum	another name for a will.
Testator	a person who makes a will.
Testify	to give evidence.
Testimony	the evidence a witness gives in court.
Theft	taking someone else's property dishonestly, with the intention of never returning it.
Threatening behaviour	using threats, abuse or insults against another person.
Timeshare	an arrangement where people can buy a share in part of a property for a period of time in each year. They can use their part of the accommodation each year for the period that is theirs.
Title	the right to own something.
Title deeds	the documents which prove who owns a property and under what terms.
Toll	a payment in return for being allowed to travel over a road, bridge and so on.
Tort	doing something which harms someone else. It may result in a claim for damages. (This word is Old French.)
Tortfeasor	someone who commits a tort.
Trademark	a mark which is registered at trademark registries and which is used on products produced by the owner. It is illegal for anyone else to display the mark.
Transcript	the official record of a court case.

Transferable securities	securities, such as debentures, which can have their ownership changed.
Transferee	the person something is transferred to.
Transferor	the person who transfers something to someone else.
Treason	the crime of betraying your country such as helping your country's enemies in wartime.
Treasure trove	treasure found in a hiding place and whose owner cannot be traced. It belongs to the Crown but the finder and the landowner may get a reward.
Treasury	the government department which administers (manages) the country's finances.
Treasury bill	an unconditional promise by the Treasury to repay money it has borrowed for the short term (up to one year), to pay for government spending.
Treasury Solicitor	the person who gives legal advice to the Treasury.
Trespassing	going on land without the owner's permission.
Trial	an examination of the evidence in a case and the law which applies.
Tribunal	<p>is:</p> <ul style="list-style-type: none"> • a body set up to act like a court, but outside the normal court system; • a forum to hear disputes and with the authority to settle them; • a body given power by statute to discipline members of a profession who do not keep to the high standards of behaviour demanded of members of the profession; or • a body set up by the members of an association to police the members' actions.
Trust	a financial arrangement under which property is held by named people for someone else.
Trust corporation	a company which acts as a trustee and holds a trust's assets.

Trust deed

a legal document which is used to:

- create a trust;
- change a trust; or
- control a trust.

Trustee

a person who holds property and looks after it on behalf of someone else.

Trustee in bankruptcy

a person who administers (manages) a bankrupt person's estate and pays any available money to the creditors.

U

Uberrimae fidei

of the utmost good faith. In certain contracts (such as insurance policies) one party must disclose (reveal) any material facts to the other party. If they are not disclosed the contract can be cancelled or become unenforceable. (This term is Latin.)

Ultra vires

beyond one's powers. If an organisation does something ultra vires, what it has done is invalid.

Underlease

the lease of a property by a tenant of the property to someone else.

Undertaking

a promise which can be enforced by law such as a promise made by one of the parties or by their counsel during legal proceedings.

Unfair contract terms

prevents a party to a contract unfairly limiting their liability. The Unfair Contract Terms Act 1977 was passed to control unfair exclusion clauses. In particular, in a case where someone had been killed or injured because of someone else's negligence the act prevented a contract limiting the negligent person's liability.

Unfair dismissal

sacking an employee unfairly. When an employee has been dismissed it is the employer's responsibility to prove that the dismissal was fair. If an industrial tribunal finds that the dismissal was unfair it can insist on compensation or reinstatement.

Unit trust

a trust which manages investments. People can invest in unit trusts by buying units. The managers of the trust use the money people invest to buy investments. The fund manager values the fund's assets from time to time and puts a new price on the fund's units.

Unlawful wounding	wounding someone without the justification of self defence or without power given by the law.
Unliquidated damages	the amount of damages decided by a court because the parties to a contract had not agreed in advance how much the damages would be for breaking the terms of the contract.
Unreasonable behaviour	behaviour by a married person that justifies the other partner in the marriage living apart.
Unreasonable behaviour	
Unregistered company	a company which is not registered under the Companies Acts.
Unregistered land	land which is not recorded in the registers at HM Land Registry.
Unsecured creditor	someone who has lent money without getting any security for the loan.

Uterine	describes people who have the same mother but different fathers.
V	
Vendee	a person who buys something.
Vendor	a person who sells something.
Verdict	the jury's decision at the end of a case.
Vesting order	a way the High Court transfers land without the need for a conveyance.
Vexatious litigant	a person who regularly brings court cases which have little chance of succeeding.
Vicarious liability	a situation where someone becomes responsible under the law for wrongs done by someone else. This often happens when an employee does something wrong while at work which becomes the employer's responsibility (such as an employee working negligently and causing someone else to be hurt because of the negligence).
Violent disorder	three or more people in a gathering using or threatening to use unlawful violence.
Void	unable to be enforced by the law.
Voidable	- able to be cancelled in certain circumstances.
Voluntary arrangement	an agreement between a debtor and the creditors. If a person or a company cannot pay their debts when they are due they can come to a voluntary arrangement with the creditors to pay the debts over a period. If the creditors agree with the proposals it avoids bankruptcy of the individual or liquidation of the company.
Voluntary manslaughter	<p>Murder and voluntary manslaughter have the same meaning in law. But there are four defences that can reduce the crime in seriousness to manslaughter:</p> <ul style="list-style-type: none"> • Provocation; • Diminished responsibility; • Infanticide: and • Suicide.

W

Ward of court

a person who is protected by the High Court, such as a minor.

Warrant

is:

- a certificate which gives the person holding it the right to buy shares at a given price;
- a magistrate's written instruction to arrest someone; or
- a magistrate's written instruction to search a property.

Warranty

a term in a contract. If the term is not complied with damages can be claimed by the injured party.

Wayleave

a right of way through or over a piece of land often for a particular purpose, such as for a pipeline to go through a piece of land or for goods to be carried over it.

Will

a legal document which people use to bequeath (leave as a gift) money and property when they die.

Winding up

disposing of all a company's assets and paying all its debts. Any money left is then divided among the members.

Without prejudice

when written on a document, the document cannot be used as evidence that a contract or agreement exists.

Witness

someone who:

- watches a signature being put on a document, and then signs as well to verify the signature's authenticity; or
- attends court to testify about events they know about.

To witness a document is to watch it being signed and then add your own signature and name, address and occupation.

Words of art

words which have a fixed meaning in law so that their use in a legal document can have only one interpretation.

Writ

an order issued by a court telling someone to do something or not to do something. (This has been known as a 'claim form' since April 1999).

Writ of execution	a type of writ ('claim form' since April 1999) used when a court judgement needs enforcing.
Writ of summons	a type of writ ('claim form' since April 1999) used to start a civil case in the High Court. (This has been known as a 'claim form' since April 1999).
Wrongful dismissal	ending an employee's contract without following the contract's terms.
Wrongful trading	continuing to trade while knowing that there is little prospect of the company being able to pay its debts.

Y

Young offender a person between the ages of 14 and 17 who has committed a crime.