

# THE INDIAN PENAL CODE

## ARRANGEMENT OF SECTIONS

### CHAPTER I

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206. Fraudulent removal or concealment of property to prevent its seizure as forfeited or in execution.
207. Fraudulent claim to property to prevent its seizure as forfeited or in execution.
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if a capital offence;  
if punishable with imprisonment for life, or with imprisonment.
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220. Commitment for trial or confinement by person having authority who knows that he is acting contrary to law.
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- 235. Possession of instrument or material for the purpose of using the same for counterfeiting coin:  
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- 237. Import or export of counterfeit coin.
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- 240. Delivery of Indian coin, possessed with knowledge that it is counterfeit.
- 241. Delivery of coin as genuine, which, when first possessed, the deliverer did not know to be counterfeit.
- 242. Possession of counterfeit coin by person who knew it to be counterfeit when he became possessed thereof.
- 243. Possession of Indian coin by person who knew it to be counterfeit when he became possessed thereof.
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- 249. Altering appearance of Indian coin with intent that it shall pass as coin of different description.
- 250. Delivery of coin, possessed with knowledge that it is altered.
- 251. Delivery of Indian coin, possessed with knowledge that it is altered.
- 252. Possession of coin by person who knew it to be altered when he became possessed thereof.
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- 254. Delivery of coin as genuine, which, when first possessed, the deliverer did not know to be altered.
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- 260. Using as genuine a Government stamp known to be counterfeit.
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- 279. Rash driving or riding on a public way.
- 280. Rash navigation of vessel.
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- 282. Conveying person by water for hire in unsafe or overloaded vessel.
- 283. Danger or obstruction in public way or line of navigation.
- 284. Negligent conduct with respect to poisonous substance.
- 285. Negligent conduct with respect to fire or combustible matter.
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- 289. Negligent conduct with respect to animal.
- 290. Punishment for public nuisance in cases not otherwise provided for.
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- 300. Murder.
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- 301. Culpable homicide by causing death of person other than person whose death was intended.
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- 304. Punishment for culpable homicide not amounting to murder.
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- 305. Abetment of suicide of child or insane person.
- 306. Abetment of suicide.
- 307. Attempt to murder.
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- 310. Thug.
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- 322. Voluntarily causing grievous hurt.
- 323. Punishment for voluntarily causing hurt.
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- 325. Punishment for voluntarily causing grievous hurt.
- 326. Voluntarily causing grievous hurt by dangerous weapons or means.
- 326A. Voluntarily causing grievous hurt by use of acid, etc.
- 326B. Voluntarily throwing or attempting to throw acid.
- 327. Voluntarily causing hurt to extort property, or to constrain to an illegal to an act.
- 328. Causing hurt by means of poison, etc., with intent to commit an offence.
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- 330. Voluntarily causing hurt to extort confession, or to compel restoration of property.
- 331. Voluntarily causing grievous hurt to extort confession, or to compel restoration of property.
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- 336. Act endangering life or personal safety of others.
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- 340. Wrongful confinement.
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- 345. Wrongful confinement of person for whose liberation writ has been issued.
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- 350. Criminal force.
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- 354C. Voyeurism.
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- 355. Assault or criminal force with intent to dishonour person, otherwise than on grave provocation.
- 356. Assault or criminal force in attempt to commit theft of property carried by a person.
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- 365. Kidnapping or abducting with intent secretly and wrongfully to confine person.
- 366. Kidnapping, abducting or inducing woman to compel her marriage, etc.
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- 367. Kidnapping or abducting in order to subject person to grievous hurt, slavery, etc.
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- 369. Kidnapping or abducting child under ten years with intent to steal from its person.
- 370. Trafficking of person.
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- 376B. Sexual intercourse by husband upon his wife during separation.
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- 384. Punishment for extortion.
- 385. Putting person in fear of injury in order to commit extortion.
- 386. Extortion by putting a person in fear of death on grievous hurt.
- 387. Putting person in fear of death or of grievous hurt, in order to commit extortion.
- 388. Extortion by threat of accusation of an offence punishable with death or imprisonment for life, etc.
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- 390. Robbery.
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- 391. Dacoity.
- 392. Punishment for robbery.
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- 395. Punishment for dacoity.
- 396. Dacoity with murder.
- 397. Robbery, or dacoity, with attempt to cause death or grievous hurt.
- 398. Attempt to commit robbery or dacoity when armed with deadly weapon.
- 399. Making preparation to commit dacoity.
- 400. Punishment for belonging to gang of dacoits.
- 401. Punishment for belonging to gang of thieves.
- 402. Assembling for purpose of committing dacoity.

*Of criminal misappropriation of property*

SECTIONS

- 403. Dishonest misappropriation of property.
- 404. Dishonest misappropriation of property possessed by deceased person at the time of his death.

*Of criminal breach of trust*

- 405. Criminal breach of trust.
- 406. Punishment for criminal breach of trust.
- 407. Criminal breach of trust by carrier, etc.
- 408. Criminal breach of trust by clerk or servant.
- 409. Criminal breach of trust by public, servant. or by banker, merchant or agent.

*Of the receiving of stolen property*

- 410. Stolen property.
- 411. Dishonestly receiving stolen property.
- 412. Dishonestly receiving property stolen in the commission of a dacoity.
- 413. Habitually dealing in stolen property.
- 414. Assisting in concealment of stolen property.

*Of Cheating*

- 415. Cheating.
- 416. Cheating by personation.
- 417. Punishment for cheating.
- 418. Cheating with knowledge that wrongful loss may ensue to person whose interest offender is bound to protect.
- 419. Punishment for cheating by personation.
- 420. Cheating and dishonestly inducing delivery of property.

*Of Fraudulent Deeds and Dispositions of Property*

- 421. Dishonest or fraudulent removal or concealment of property to prevent distribution among creditor.
- 422. Dishonestly or fraudulently preventing debt being available for creditors.
- 423. Dishonest or fraudulent execution of deed of transfer containing false statement of consideration.
- 424. Dishonest or fraudulent removal or concealment of property.

*Of mischief*

- 425. Mischief.
- 426. Punishment for mischief.
- 427. Mischief causing damage to the amount of fifty rupees.
- 428. Mischief by killing or maiming animal of the value of ten rupees.
- 429. Mischief by killing or maiming cattle, etc., of any value or any animal of the value of fifty rupees.
- 430. Mischief by injury to works of irrigation or by wrongfully diverting water.
- 431. Mischief by injury to public road, bridge, river or channel.
- 432. Mischief by causing inundation or obstruction to public drainage attended with damage.
- 433. Mischief by destroying, moving or rendering less useful a light-house or sea-mark.
- 434. Mischief by destroying or moving, etc., a land-mark fixed by public authority.
- 435. Mischief by fire or explosive substance with intent to cause damage to amount of one hundred or (in case of agricultural produce) ten rupees.
- 436. Mischief by fire or explosive substance with intent to destroy house, etc.
- 437. Mischief with intent to destroy or make unsafe a decked vessel or one of twenty tons burden.
- 438. Punishment for the mischief described in section 437 committed by fire or explosive substance.
- 439. Punishment for intentionally running vessel aground, or ashore with intent to commit theft, etc.
- 440. Mischief committed after preparation made for causing death or hurt.

*Of criminal trespass*

- 441. Criminal trespass.
- 442. House-trespass.
- 443. Lurking house-trespass.
- 444. Lurking house-trespass by night.
- 445. House-breaking.
- 446. House-breaking by night.
- 447. Punishment for criminal trespass.
- 448. Punishment for house-trespass.
- 449. House-trespass in order to commit offence punishable with death.
- 450. House-trespass in order to commit offence punishable with imprisonment for life.
- 451. House-trespass in order to commit offence punishable with imprisonment.

## SECTIONS

- 452. House-trespass after preparation for hurt, assault or wrongful restraint.
- 453. Punishment for lurking house-trespass or house-breaking.
- 454. Lurking house-trespass or house-breaking in order to commit offence punishable with imprisonment.
- 455. Lurking house-trespass or house-breaking after preparation for hurt, assault or wrongful restraint.
- 456. Punishment for lurking house-trespass or house-breaking by night.
- 457. Lurking house-trespass or house-breaking by night in order to commit offence punishable with imprisonment.
- 458. Lurking house-trespass or house-breaking by night after preparation for hurt, assault, or wrongful restraint.
- 459. Grievous hurt caused whilst committing lurking house-trespass or house-breaking.
- 460. All persons jointly concerned in lurking house-trespass or house-breaking by night punishable where death or grievous hurt caused by one of them.
- 461. Dishonestly breaking open receptacle containing property.
- 462. Punishment for same offence when committed by person entrusted with custody.

## CHAPTER XVIII

### OF OFFENCES RELATING TO DOCUMENTS AND TO PROPERTY MARKS

- 463. Forgery.
- 464. Making a false document.
- 465. Punishment for forgery.
- 466. Forgery of record of Court or of public register, etc.
- 467. Forgery of valuable security, will, etc.
- 468. Forgery for purpose of cheating.
- 469. Forgery for purpose of harming reputation.
- 470. Forged document.
- 471. Using as genuine a forged document or electronic record.
- 472. Making or possessing counterfeit seal, etc., with intent to commit forgery punishable under section 467.
- 473. Making or possessing counterfeit seal, etc., with intent to commit forgery punishable otherwise.
- 474. Having possession of document described in sections 466 or 467, knowing it to be forged and intending to use it genuine.
- 475. Counterfeiting device or mark used for authenticating documents described in section 467, or possessing counterfeit marked material.
- 476. Counterfeiting device or mark used for authenticating documents other than those described in section 467, or possessing counterfeit marked material.
- 477. Fraudulent cancellation, destruction, etc., of will, authority to adopt, or valuable security.
- 477A. Falsification of accounts.

#### *Of property and other marks*

- 478. *[Repealed.]*.
- 479. Property mark.
- 480. *[Repealed.]*.
- 481. Using a false property mark.
- 482. Punishment for using a false property mark.
- 483. Counterfeiting a property mark used by another.
- 484. Counterfeiting a mark used by a public servant.
- 485. Making or possession of any instrument for counterfeiting a property mark.
- 486. Selling goods marked with a counterfeit property mark.
- 487. Making a false mark upon any receptacle containing goods.
- 488. Punishment for making use of any such false mark.
- 489. Tampering with property mark with intent to cause injury.

#### *Of currency-notes and bank-notes*

- 489A. Counterfeiting currency-notes or bank-notes.
- 489B. Using as genuine, forged or counterfeit currency-notes or bank-notes.
- 489C. Possession of forged or counterfeit currency notes or bank-notes.
- 489D. Making or possessing instruments or materials for forging or counterfeiting currency-notes or bank-notes.
- 489E. Making or using documents resembling currency-notes or bank-notes.

## CHAPTER XIX

### OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE

- 490. *[Repealed.]*.
- 491. Breach of contract to attend on and supply wants of helpless person.
- 492. *[Repealed.]*.

## CHAPTER XX OF OFFENCES RELATING TO MARRIAGE

### SECTIONS

- 493. Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.
- 494. Marrying again during life-time of husband or wife.
- 495. Same offence with concealment of former marriage from person with whom subsequent marriage is contracted.
- 496. Marriage ceremony fraudulently gone through without lawful marriage.
- 497. Adultery.
- 498. Enticing or taking away or detaining with criminal intent a married woman.

## CHAPTER XXA OF CRUELTY BY HUSBAND OR RELATIVES OF HUSBAND

- 498A. Husband or relative of husband of a woman subjecting her to cruelty.

## CHAPTER XXI OF DEFAMATION

- 499. Defamation.
  - Imputation of truth which public good requires to be made or published.
  - Public conduct of public servants.
  - Conduct of any person touching any public question.
  - Publication of reports of proceedings of Courts.
  - Merits of case decided in Court or conduct of witnesses and others concerned.
  - Merits of public performance.
  - Censure passed in good faith by person having lawful authority over another.
  - Accusation preferred in good faith to authorised person.
  - Imputation made in good faith by person for protection of his or other's interests.
  - Caution intended for good of person to whom conveyed or for public good.
- 500. Punishment for defamation.
- 501. Printing or engraving matter known to be defamatory.
- 502. Sale of printed or engraved substance containing defamatory matter.

## CHAPTER XXII OR CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE

- 503. Criminal intimidation.
- 504. Intentional insult with intent to provoke breach of the peace.
- 505. Statements conducing to public mischief.
  - Statements creating or promoting enmity, hatred or ill-will between classes.
  - Offence under sub-section (2) committed in place of worship, etc.
- 506. Punishment for criminal intimidation.
  - If threat be to cause death or grievous hurt, etc.
- 507. Criminal intimidation by an anonymous communication.
- 508. Act caused by inducing person to believe that he will be rendered an object of the Divine displeasure.
- 509. Word, gesture or act intended to insult the modesty of a woman.
- 510. Misconduct in public by a drunken person.

## CHAPTER XXIII OF ATTEMPTS TO COMMIT OFFENCES

- 511. Punishment for attempting to commit offences punishable with imprisonment for life or other imprisonment.

# THE INDIAN PENAL CODE

ACT NO. 45 OF 1860<sup>1</sup>

[6th October, 1860.]

## CHAPTER I

### INTRODUCTION

**Preamble.**—WHEREAS it is expedient to provide a general Penal Code for <sup>2</sup>[India]; It is enacted as follows:—

**1. Title and extent of operation of the Code.**—This Act shall be called the Indian Penal Code, and shall <sup>3</sup>[extend to the whole of India <sup>4</sup>\*\*\*].

**2. Punishment of offences committed within India.**—Every person shall be liable to punishment under this Code and not otherwise for every act or omission contrary to the provisions thereof, of which he shall be guilty within <sup>5</sup>[India] <sup>6</sup>\*\*\*.

**3. Punishment of offences committed beyond, but which by law may be tried within, India.**—Any person liable, by any <sup>7</sup>[Indian law], to be tried for an offence committed beyond <sup>8</sup>[India] shall be dealt with according to the provisions of this Code for any act committed beyond <sup>8</sup>[India] in the same manner as if such act had been committed within <sup>5</sup>[India].

<sup>9</sup>**[4. Extension of Code to extra-territorial offences.**—The provisions of this Code apply also to any offence committed by—

<sup>10</sup>[(1) any citizen of India in any place without and beyond India;

(2) any person on any ship or aircraft registered in India wherever it may be.]

<sup>11</sup>[(3) any person in any place without and beyond India committing offence targeting a computer resource located in India.]

<sup>12</sup>[*Explanation.*—In this section—

(a) the word “offence” includes every act committed outside India which, if committed in India, would be punishable under this Code;

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1. The Indian Penal Code has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941) and has been declared in force in—

Sonthal Parganas, by the Sonthal Parganas Settlement Regulation 1872 (3 of 1872) s. 2;  
Panth Piploda, by the Panth Piploda Laws Regulation, 1929 (1 of 1929), s. 2 and the Sch.;  
Khondmals District, by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and the Sch; and  
Angul District, by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and the Sch.

It has been declared under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely: the United Provinces Tarai Districts, *see* Gazette of India, 1876, Pt. I, p. 505; the Districts of Hazaribagh, Lohardaga [now called the Ranchi District, *see* Calcutta Gazette, 1899, Pt. I, p. 44] and Manbhum and Pargana Dhalbhum and the Kolhan in the District of Singhbhum—*see* Gazette of India, 1881, Pt. I, p. 504.

It has been extended under s. 5 of the same Act to the Lushai Hills—*see* Gazette of India, 1898, Pt. II, p. 345.

The Act has been extended to Goa, Daman and Diu by Reg. 12 of 1962, s. 3 and Sch; to Dadra and Nagar Haveli by Reg. 6 of 1963, s. 2 and Sch. I; to Pondicherry by Reg. 7 of 1963, s. 3 and Sch. I and to Laccadive, Minicoy and Amindivi Islands by Reg. 8 of 1965, s. 3 and Sch.

It has been extended to the State of Sikkim w.e.f. 13-9-1994 *vide* Notification No. S.O. 516(E), dated 9th July, 1994.

2. The words “British India” have successively been subs. by the A.O. 1948, the A.O. 1950 and Act 3 of 1951, s. 3 and the Sch., (w.e.f. 1-4-1951) to read as above.
3. The Original words have successively been amended by Act 12 of 1891, s. 2 and Sch. I, the A.O. 1937, the A.O. 1948 and the A.O. 1950 to read as above.
4. The words “except the State of Jammu and Kashmir” omitted by Act 34 of 2019, s. 95 and the Fifth Schedule (w.e.f. 31-10-2019).
5. The original words “the said territories” have successively been amended by the A.O. 1937, the A.O. 1948, the A.O. 1950 and Act 3 of 1951, s. 3 and the Sch., (w.e.f. 3-4-1951) to read as above.
6. The words and figures “on or after the said first day of May, 1861” rep. by Act 12 of 1891, s. 2 and the First Sch. (w.e.f. 21-3-1891).
7. Subs. by the A.O. 1937 for “law passed by the Governor General of India in Council”.
8. The Original words “the limits of the said territories” have successively been amended by the A.O. 1937, the A.O. 1948, the A.O. 1950 and Act 3 of 1951, s. 3 and the Sch., to read as above.
9. Subs. by Act 4 of 1898, s. 2, for section 4 (w.e.f. 18-2-1898).
10. Subs. by the A.O. 1950, for cls. (1) to (4).
11. Ins. by Act 10 of 2009, s. 51 (w.e.f. 27-10-2009).
12. Subs. by s. 51, *ibid.*, for the *Explanation* (w.e.f. 27-10-2009).

(b) the expression “computer resource” shall have the meaning assigned to it in clause (k) of sub-section (I) of section 2 of the Information Technology Act, 2000 (21 of 2000).]

<sup>1</sup>[*Illustration*]

<sup>2</sup>\*\*\*A, <sup>3</sup>[who is <sup>4</sup>[a citizen of India]], commits a murder in Uganda. He can be tried and convicted of murder in any place in <sup>5</sup>[India] in which he may be found.

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<sup>7</sup>[**5. Certain laws not to be affected by this Act.**—Nothing in this Act shall affect the provisions of any Act for punishing mutiny and desertion of officers, soldiers, sailors or airmen in the service of the Government of India or the provisions of any special or local law.]

## CHAPTER II

### GENERAL EXPLANATIONS

**6. Definitions in the Code to be understood subject to exceptions.**—Throughout this Code every definition of an offence, every penal provision, and every *illustration* of every such definition or penal provision, shall be understood subject to the exceptions contained in the Chapter entitled “General Exceptions”, though those exceptions are not repeated in such definition, penal provision, or *illustration*.

#### *Illustrations*

(a) The sections, in this Code, which contain definitions of offences, do not express that a child under seven years of age cannot commit such offences; but the definitions are to be understood subject to the general exception which provides that nothing shall be an offence which is done by a child under seven years of age.

(b) A, a police-officer, without warrant, apprehends Z, who has committed murder. Here A is not guilty of the offence of wrongful confinement; for he was bound by law to apprehend Z, and therefore the case falls within the general exception which provides that “nothing is an offence which is done by a person who is bound by law to do it”.

**7. Sense of expression once explained.**—Every expression which is explained in any part of this Code, is used in every part of this Code in conformity with the explanation.

**8. Gender.**—The pronoun “he” and its derivatives are used of any person, whether male or female.

**9. Number.**—Unless the contrary appears from the context, words importing the singular number include the plural number, and words importing the plural number include the singular number.

**10. “Man”. “Woman”.**—The word “man” denotes a male human being of any age; the word “woman” denotes a female human being of any age.

**11. “Person”.**—The word “person” includes any Company or Association or body of persons, whether incorporated or not.

**12. “Public”.**—The word “public” includes any class of the public or any community.

**13.** [*Definition of “Queen”.*] Omitted by the A. O. 1950.

<sup>8</sup>[**14. “Servant of Government”.**—The words “servant of Government” denote any officer or servant continued, appointed or employed in India by or under the authority of Government.]

**15.** [*Definition of “British India”.*] Rep. by the A. O. 1937.

**16.** [*Definition of “Government of India”.*] Rep., *ibid*.

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1. Subs. by Act 36 of 1957, s. 3 and Schedule II, for “*Illustrations*” (w.e.f. 17-9-1957).

2. The brackets and letter “(a)” omitted by s. 3 and the Second Sch., *ibid*. (w.e.f. 17-9-1951).

3. Subs. by the A.O. 1948, for “a coolie, who is a Native Indian subject”.

4. Subs. by the A.O. 1950, for “a British subject of Indian domicile”.

5. The words “British India” have been successively amended by the A.O. 1948, the A.O. 1950 and Act 3 of 1951, s. 3 and the Sch., (w.e.f. 1-4-1951) to read as above.

6. *Illustrations* (b), (c) and (d) omitted by the A.O. 1950.

7. Subs., *ibid*., for section 5.

8. Subs., *ibid*., for section 14.





*Seventh.*—Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;

*Eighth.*—Every officer of <sup>1</sup>[the Government] whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience;

*Ninth.*—Every officer whose duty it is as such officer, to take, receive, keep or expend any property on behalf of <sup>1</sup>[the Government], or to make any survey, assessment or contract on behalf of <sup>1</sup>[the Government], or to execute any revenue-process, or to investigate, or to report, on any matter affecting the pecuniary interests of <sup>1</sup>[the Government], or to make, authenticate or keep any document relating to the pecuniary interests of <sup>1</sup>[the Government], or to prevent the infraction of any law for the protection of the pecuniary interests of <sup>1</sup>[the Government] <sup>2\*\*\*</sup>;

*Tenth.*—Every officer whose duty it is, as such officer, to take, receive, keep or expend any property, to make any survey or assessment or to levy any rate or tax for any secular common purpose of any village, town or district, or to make, authenticate or keep any document for the ascertaining of the rights of the people of any village, town or district;

<sup>3</sup>[*Eleventh.*—Every person who holds any office in virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election;]

<sup>4</sup>[*Twelfth.*—Every person—

(a) in the service or pay of the Government or remunerated by fees or commission for the performance of any public duty by the Government;

(b) in the service or pay of a local authority, a corporation established by or under a Central, Provincial or State Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956).]

#### *Illustration*

A Municipal Commissioner is a public servant.

*Explanation 1.*—Persons falling under any of the above descriptions are public servants, whether appointed by the Government or not.

*Explanation 2.*—Wherever the words “public servant” occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

<sup>3</sup>[*Explanation 3.*—The word “election” denotes an election for the purpose of selecting members of any legislative, municipal or other public authority, of whatever character, the method of selection to which is by, or under, any law prescribed as by election.]

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### STATE AMENDMENT

#### **Rajasthan**

**Amendment of Section 21, Central Act 45 of 1860.**—In section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860), in its application to the State of Rajasthan, after clause *Twelfth*, the following new clause shall be added, namely:—

*Thirteenth.*—Every person employed or engaged by any public body in the conduct and supervision of any examination recognised or approved under any law.

*Explanation.*—The expression “Public Body” includes.—

1. Subs. by the A.O. 1950, for “the Crown” which had been subs. by the A.O. 1937, for “Government”.

2. Certain words omitted by Act 40 of 1964, s. 2 (w.e.f. 18-12-1964).

3. Ins. by Act 39 of 1920, s. 2.

4. Subs. by Act 40 of 1964, s. 2, for Cl. *Twelfth* (w.e.f. 18-12-1964).

5. *Explanation 4* omitted by Act 39 of 1920, s. 2 Earlier *Explanation Four* was ins. By Act 2 of 1958, s. 2 (w.e.f. 12-2-1958).

(a) a University, Board of Education or other body, either established by or under a Central or State Act or under the provisions of the Constitution of India or constituted by the Government: and

(b) a local authority."

[Vide Rajasthan Act 4 of 1993, s. 2 (w.e.f. 11-2-1993)]

**22. "Movable property".**—The words "movable property" are intended to include corporeal property of every description, except land and things attached to the earth or permanently fastened to anything which is attached to the earth.

**23. "Wrongful gain".**—"Wrongful gain" is gain by unlawful means of property to which the person gaining is not legally entitled.

**"Wrongful loss".**—"Wrongful loss" is the loss by unlawful means of property to which the person losing it is legally entitled.

**Gaining wrongfully/Losing wrongfully.**—A person is said to gain wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully. A person is said to lose wrongfully when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of property.

**24. "Dishonestly".**—Whoever does anything with the intention of causing wrongful gain to one person or wrongful loss to another person, is said to do that thing "dishonestly".

**25. "Fraudulently".**—A person is said to do a thing fraudulently if he does that thing with intent to defraud but not otherwise.

**26. "Reason to believe".**—A person is said to have "reason to believe" a thing if he has sufficient cause to believe that thing but not otherwise.

**27. "Property in possession of wife, clerk or servant".**—When property is in the possession of a person's wife, clerk or servant, on account of that person, it is in that person's possession within the meaning of this Code.

*Explanation.*—A person employed temporarily or on a particular occasion in the capacity of a clerk, or servant, is a clerk or servant within the meaning of this section.

**28. "Counterfeit".**—A person is said to "counterfeit" who causes one thing to resemble another thing, intending by means of that resemblance to practise deception, or knowing it to be likely that deception will thereby be practised.

<sup>1</sup>[*Explanation 1.*—It is not essential to counterfeiting that the imitation should be exact.

*Explanation 2.*—When a person causes one thing to resemble another thing, and the resemblance is such that a person might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the one thing to resemble the other thing intended by means of that resemblance to practise deception or knew it to be likely that deception would thereby be practised.]

**29. "Document".**—The word "document" denotes any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, intended to be used, or which may be used, as evidence of that matter.

*Explanation 1.*—It is immaterial by what means or upon what substance the letters, figures or marks are formed, or whether the evidence is intended for, or may be used in, a Court of Justice, or not.

#### *Illustrations*

A writing expressing the terms of a contract, which may be used as evidence of the contract, is a document.

A cheque upon a banker is a document.

A power-of-attorney is a document.

A map or plan which is intended to be used or which may be used as evidence, is a document.

A writing containing directions or instructions is a document.

*Explanation 2.*—Whatever is expressed by means of letters, figures or marks as explained by mercantile or other usage, shall be deemed to be expressed by such letters, figures or marks within the meaning of this section, although the same may not be actually expressed.

#### *Illustration*

A writes his name on the back of a bill of exchange payable to his order. The meaning of the endorsement, as explained by mercantile usage, is that the bill is to be paid to the holder. The endorsement is a document, and must be construed in the same manner as if the words "pay to the holder" or words to that effect had been written over the signature.

<sup>2</sup>[**29A. "Electronic record".**—The words "electronic record" shall have the meaning assigned to them in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000).]

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1. Subs. by Act 1 of 1889, s. 9, for the *Explanation*.

2. Ins. by Act 21 of 2000, s. 91 and the First Sch. (w.e.f. 17-10-2000).

**30. “Valuable security”.**—The words “valuable security” denote a document which is, or purports to be, a document whereby any legal right is created, extended, transferred, restricted, extinguished or released, or whereby any person acknowledges that he lies under legal liability, or has not a certain legal right.

*Illustration*

A writes his name on the back of a bill of exchange. As the effect of this endorsement is to transfer the right to the bill to any person who may become the unlawful holder of it, the endorsement is a “valuable security”.

**31. “A will”.**—The words “a will” denote any testamentary document.

**32. Words referring to acts include illegal omissions.**—In every part of this Code, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions.

**33. “Act”. “Omission”.**—The word “act” denotes as well as series of acts as a single act: the word “omission” denotes as well a series of omissions as a single omission.

<sup>1</sup>**[34. Acts done by several persons in furtherance of common intention.**—When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.]

**35. When such an act is criminal by reason of its being done with a criminal knowledge or intention.**—Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins in the act with such knowledge or intention is liable for the act in the same manner as if the act were done by him alone with that knowledge or intention.

**36. Effect caused partly by act and partly by omission.**—Wherever the causing of a certain effect, or an attempt to cause that effect, by an act or by an omission, is an offence, it is to be understood that the causing of that effect partly by an act and partly by an omission is the same offence.

*Illustration*

A intentionally causes Z's death, partly by illegally omitting to give Z food, and partly by beating Z. A has committed murder.

**37. Co-operation by doing one of several acts constituting an offence.**—When an offence is committed by means of several acts, whoever intentionally co-operates in the commission of that offence by doing any one of those acts, either singly or jointly with any other person, commits that offence.

*Illustrations*

(a) A and B agree to murder Z by severally and at different times giving him small doses of poison. A and B administer the poison according to the agreement with intent to murder Z. Z dies from the effects the several doses of poison so administered to him. Here A and B intentionally co-operate in the commission of murder and as each of them does an act by which the death is caused, they are both guilty of the offence though their acts are separate.

(b) A and B are joint jailors, and as such have the charge of Z, a prisoner, alternatively for six hours at a time. A and B, intending to cause Z's death, knowingly co-operate in causing that effect by illegally omitting, each during the time of his attendance, to furnish Z with food supplied to them for that purpose. Z dies of hunger. Both A and B, are guilty of the murder of Z.

(c) A, a jailor, has the charge of Z, a prisoner. A, intending to cause Z's death, illegally omits to supply Z with food; in consequence of which Z is much reduced in strength, but the starvation is not sufficient to cause his death. A is dismissed from his office, and B succeeds him. B, without collusion or co-operation with A, illegally omits to supply Z with food, knowing that he is likely thereby to cause Z's death. Z dies of hunger. B is guilty of murder, but, as A did not co-operate with B. A is guilty only of an attempt to commit murder.

**38. Persons concerned in criminal act may be guilty of different offences.**—Where several persons are engaged or concerned in the commission of a criminal act, they may be guilty of different offences by means of that act.

*Illustration*

A attacks Z under such circumstances of grave provocation that his killing of Z would be only culpable homicide not amounting to murder. B, having ill-will towards Z and intending to kill him, and not having been subject to the provocation, assists A in killing Z. Here, though A and B are both engaged in causing Z's death, B is guilty of murder, and A is guilty only of culpable homicide.

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1. Subs. by Act 27 of 1870, s. 1, for section 34.

**39. “Voluntarily”.**—A person is said to cause an effect “voluntarily” when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it.

*Illustration*

A sets fire, by night, to an inhabited house in a large town, for the purpose of facilitating a robbery and thus causes the death of a person. Here, A may not have intended to cause death, and may even be sorry that death has been caused by his act; yet, if he knew that he was likely to cause death, he has caused death voluntarily.

<sup>1</sup>[**40. “Offence”.**—Except in the <sup>2</sup>[Chapters] and sections mentioned in clauses 2 and 3 of this section, the word “offence” denotes a thing made punishable by this Code.

In Chapter IV, <sup>3</sup>[Chapter VA] and in the following sections, namely, sections <sup>4</sup>[64, 65, 66, <sup>5</sup>[67], 71], 109, 110, 112, 114, 115, 116, 117,<sup>6</sup>[118, 119 and 120] 187, 194, 195, 203, 211, 213, 214, 221, 222, 223, 224, 225, 327, 328, 329, 330, 331, 347, 348, 388, 389 and 445, the word “offence” denotes a thing punishable under this Code, or under any special or local law as hereinafter defined.

And in sections 141, 176, 177, 201, 202, 212, 216 and 441, the word “offence” has the same meaning when the thing punishable under the special or local law is punishable under such law with imprisonment for a term of six months or upwards, whether with or without fine.]

**41. “Special law”.**—A “special law” is a law applicable to a particular subject.

**42. “Local law”.**—A “local law” is a law applicable only to a particular part of <sup>7</sup>[<sup>8</sup>\*\*\*<sup>9</sup>[India]].

**43. “Illegal”. “Legally bound to do”.**—The word “illegal” is applicable to everything which is an offence or which is prohibited by law, or which furnishes ground for a civil action; and a person is said to be “legally bound to do” whatever it is illegal in him to omit.

**44. “Injury”.**—The word “injury” denotes any harm whatever illegally caused to any person, in body, mind, reputation or property.

**45. “Life”.**—The word “life” denotes the life of a human being, unless the contrary appears from the context.

**46. “Death”.**—The word “death” denotes the death of a human being unless the contrary appears from the context.

**47. “Animal”.**—The word “animal” denotes any living creature, other than a human being.

**48. “Vessel”.**—The word “vessel” denotes anything made for the conveyance by water of human beings or of property.

**49. “Year”. “Month”.**—Wherever the word “year” or the word “month” is used, it is to be understood that the year or the month is to be reckoned according to the British calendar.

**50. “Section”.**—The word “section” denotes one of those portions of a Chapter of this Code which are distinguished by prefixed numeral figures.

**51. “Oath”.**—The word “oath” includes a solemn affirmation substituted by law for an oath, and any declaration required or authorised by law to be made before a public servant or to be used for the purpose of proof, whether in a Court of Justice or not.

**52. “Good faith”.**—Nothing is said to be done or believed in “good faith” which is done or believed without due care and attention.

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1. Subs. by Act 27 of 1870, s. 2, for section 40.

2. Subs. by Act 8 of 1930, s. 2 and the First Sch., for “Chapter”.

3. Ins. by Act 8 of 1913, s. 2.

4. Ins. by Act 8 of 1882, s. 1.

5. Ins. by Act 10 of 1886, s. 21 (I).

6. Ins. by Act 10 of 2009, s. 51 (w.e.f. 27-10-2009).

7. Subs. by the A.O. 1948, for “British India”.

8. The words “the territories comprised in” omitted by Act 48 of 1952, s. 3 and the Second Sch.

9. Subs. by Act 3 of 1951, s. 3 and the Sch., for “the States” which had been subs. by the A.O. 1950, for “the Provinces”.

<sup>1</sup>[**52A. “Harbour.”**—Except in section 157, and in section 130 in the case in which the harbour is given by the wife or husband of the person harboured, the word “harbour” includes the supplying a person with shelter, food, drink, money, clothes, arms, ammunition or means of conveyance, or the assisting a person by any means, whether of the same kind as those enumerated in this section or not, to evade apprehension.]

CHAPTER III  
OF PUNISHMENTS

**53. Punishments.**—The punishments to which offenders are liable under the provisions of this Code are—

*First,—Death;*

<sup>2</sup>[*Secondly*.—Imprisonment for life;]

$$3_* \quad \quad \quad * \quad \quad \quad * \quad \quad \quad * \quad \quad \quad *$$

*Fourthly.*—Imprisonment, which is of two descriptions, namely:—

(1) Rigorous, that is, with hard labour;

(2) Simple;

*Fifthly.*—Forfeiture of property;

*Sixthly.*—Fine.

**4[53A. Construction of reference to transportation.—**(1) Subject to the provisions of sub-section (2) and sub-section (3), any reference to “transportation for life” in any other law for the time being in force or in any instrument or order having effect by virtue of any such law or of any enactment repealed shall be construed as a reference to “imprisonment for life”.

(2) In every case in which a sentence of transportation for a term has been passed before the commencement of the Code of Criminal Procedure (Amendment) Act, <sup>5</sup>[1955] (26 of 1955), the offender shall be dealt with in the same manner as if sentenced to rigorous imprisonment for the same term.

(3) Any reference to transportation for a term or to transportation for any shorter term (by whatever name called) in any other law for the time being in force shall be deemed to have been omitted.

(4) Any reference to “transportation” in any other law for the time being in force shall,—

(a) if the expression means transportation for life, be construed as a reference to imprisonment for life:

(b) if the expression means transportation for any shorter term, be deemed to have been omitted.]

**54. Commutation of sentence of death.**—In every case in which sentence of death shall have been passed, <sup>6</sup>[the appropriate Government] may, without the consent of the offender, commute the punishment for any other punishment provided by this Code.

**55. Commutation of sentence of imprisonment for life.**—In every case in which sentence of <sup>7</sup>[imprisonment] for life shall have been passed, <sup>8</sup>[the appropriate Government] may, without the consent

1. Ins. by Act 8 of 1942, s. 2 (w.e.f. 14-2-1942).

2. Subs. by Act 26 of 1955, s. 117 and the Sch., for “*Secondly.—Transportation*” (w.e.f. 1-1-1956).

3. The words "Thirdly,--Penal servitude;" omitted by Act 17 of 1949, s. 2 (w.e.f. 6-4-1949).

4. Ins. by Act 26 of 1955, s. 117 and the Sch. (w.e.f. 1-1-1956).

5. Subs. by Act 36 of 1957, s. 3 and the Second Sch., for "1954" (w.e.f. 17-9-1957).

6. Subs. by the A.O. 1950, for “the *Central Government or the Provincial Government of the Province* within which the offender shall have been sentenced”. The words in italics were subs. by the A.O. 1937, for “the Government of India or the Government of the place”.

7. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation” (w.e.f. 1-1-1956).

8. Subs. by the A.O. 1950, for "*the Provincial Government of the Province* within which the offender shall have been sentenced". The words in italics were subs. by the A.O. 1937, for "*the Government of India or the Government of the place*".

of the offender, commute the punishment for imprisonment of either description for a term not exceeding fourteen years.

<sup>1</sup>[**55A. Definition of “appropriate Government”.**—In sections fifty-four and fifty-five the expression “appropriate Government” means,—

(a) in cases where the sentence is a sentence of death or is for an offence against any law relating to a matter to which the executive power of the Union extends, the Central Government; and

(b) in cases where the sentence (whether of death or not) is for an offence against any law relating to a matter to which the executive power of the State extends, the Government of the State within which the offender is sentenced.]

**56.** [*Sentence of Europeans and Americans to penal servitude. Proviso as to sentence for term exceeding ten years but not for life.*] Rep. by the Criminal Law (Removal of Racial Discriminations) Act, 1949 (17 of 1949) (w. e. f. 6-4-1949).

**57. Fractions of terms of punishment.**—In calculating fractions of terms of punishment, <sup>2</sup>[imprisonment] for life shall be reckoned as equivalent to <sup>2</sup>[imprisonment] for twenty years.

**58.** [*Offenders sentenced to transportation how dealt with until transported.*] Rep. by the Code of Criminal Procedure (Amendment) Act, 1955 (26 of 1955), s. 117 and the Sch. (w.e.f. 1-1-1956).

**59.** [*Transportation instead of imprisonment.*] Rep. by s.117 and the Sch., *ibid.* (w.e.f. 1-1-1956).

**60. Sentence may be (in certain cases of imprisonment) wholly or partly rigorous or simple.**—In every case in which an offender is punishable with imprisonment which may be of either description, it shall be competent to the Court which sentences such offender to direct in the sentence that such imprisonment shall be wholly rigorous, or that such imprisonment shall be wholly simple, or that any part of such imprisonment shall be rigorous and the rest simple.

**61.** [*Sentence of forfeiture of property.*] Rep. by the Indian Penal Code (Amendment) Act, 1921 (16 of 1921), s. 4.

**62.** [*Forfeiture of property, in respect of offenders punishable with death, transportation or imprisonment.*] Rep. by s. 4, *ibid.*

**63. Amount of fine.**—Where no sum is expressed to which a fine may extend, the amount of fine to which the offender is liable is unlimited, but shall not be excessive.

**64. Sentence of imprisonment for non-payment of fine.**—<sup>3</sup>[In every case of an offence punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment,

and in every case of an offence punishable <sup>4</sup>[with imprisonment or fine, or] with fine only, in which the offender is sentenced to a fine.]

it shall be competent to the Court which sentences such offender to direct by the sentence that, in default of payment of the fine, the offender shall suffer imprisonment for a certain term, which imprisonment shall be in excess of any other imprisonment to which he may have been sentenced or to which he may be liable under a commutation of a sentence.

**65. Limit to imprisonment for non-payment of fine, when imprisonment and fine awardable.**—The term for which the Court directs the offender to be imprisoned in default of payment of a fine shall not exceed one-fourth of the term of imprisonment which is the maximum fixed for the offence, if the offence be punishable with imprisonment as well as fine.

**66. Description of imprisonment for non-payment of fine.**—The imprisonment which the Court imposes in default of payment of a fine may be of any description to which the offender might have been sentenced for the offence.

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1. Subs. by the A. O 1950. Earlier ins. by the A. O. 1937.

2. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation” (w.e.f. 1-1-1956).

3. Subs. by Act 8 of 1882, s. 2, for “in every case in which an offender is sentenced to a fine”.

4. Ins. by Act 10 of 1886, s. 21 (2).

**67. Imprisonment for non-payment of fine, when offence punishable with fine only.**—If the offence be punishable with fine only, <sup>1</sup>[the imprisonment which the Court imposes in default of payment of the fine shall be simple, and] the term for which the Court directs the offender to be imprisoned, in default of payment of fine, shall not exceed the following scale, that is to say, for any term not exceeding two months when the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four months when the amount shall not exceed one hundred rupees, and for any term not exceeding six months in any other case.

**68. Imprisonment to terminate on payment of fine.**—The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law.

**69. Termination of imprisonment on payment of proportional part of fine.**—If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine be paid or levied that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate.

#### *Illustration*

A is sentenced to a fine of one hundred rupees and to four months' imprisonment in default of payment. Here, if seventy-five rupees of the fine be paid or levied before the expiration of one month of the imprisonment, A will be discharged as soon as the first month has expired. If seventy-five rupees be paid or levied at the time of the expiration of the first month, or at any later time while A continues in imprisonment, A will be immediately discharged. If fifty rupees of the fine be paid or levied before the expiration of two months of the imprisonment, A will be discharged as soon as the two months are completed. If fifty rupees be paid or levied at the time of the expiration of those two months, or at any later time while A continues in imprisonment, A will be immediately discharged.

**70. Fine leviable within six years, or during imprisonment. Death not to discharge property from liability.**—The fine, or any part thereof which remains unpaid, may be levied at any time within six years after the passing of the sentence, and if, under the sentence, the offender be liable to imprisonment for a longer period than six years, then at any time previous to the expiration of that period; and the death of the offender does not discharge from the liability any property which would, after his death, be legally liable for his debts.

**71. Limit of punishment of offence made up of several offences.**—Where anything which is an offence is made up of parts, any of which parts is itself an offence, the offender shall not be punished with the punishment of more than one of such his offences, unless it be so expressly provided.

<sup>2</sup>[Where anything is an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, or

where several acts, of which one or more than one would by itself or themselves constitute an offence, constitute, when combined, a different offence,

the offender shall not be punished with a more severe punishment than the Court which tries him could award for any one of such offences].

#### *Illustrations*

(a) A gives Z fifty strokes with a stick. Here A may have committed the offence of voluntarily causing hurt to Z by the whole beating, and also by each of the blows which make up the whole beating. If A were liable to punishment for every blow, he might be imprisoned for fifty years, one for each blow. But he is liable only to one punishment for the whole beating.

(b) But, if, while A is beating Z, Y interferes, and A intentionally strikes Y, here, as the blow given to Y is no part of the act whereby A voluntarily causes hurt to Z, A is liable to one punishment for voluntarily causing hurt to Z, and to another for the blow given to Y.

**72. Punishment of person guilty of one of several offences, the judgment stating that it is doubtful of which.**—In all cases in which judgment is given that a person is guilty of one of several offences specified in the judgment, but that it is doubtful of which of these offences he is guilty, the offender shall be punished for the offence for which the lowest punishment is provided if the same punishment is not provided for all.

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1. Ins. by Act 8 of 1882, s. 3.

2. Added by s. 4, *ibid*.

**73. Solitary confinement.**—Whenever any person is convicted of an offence for which under this Code the Court has power to sentence him to rigorous imprisonment, the Court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale, that is to say—

a time not exceeding one month if the term of imprisonment shall not exceed six months;

a time not exceeding two months if the term of imprisonment shall exceed six months and <sup>1</sup>[shall not exceed one] year;

a time not exceeding three months if the term of imprisonment shall exceed one year.

**74. Limit of solitary confinement.**—In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods, and when the imprisonment awarded shall exceed three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods.

<sup>2</sup>**75. Enhanced punishment for certain offences under Chapter XII or Chapter XVII after previous conviction.**—Whoever, having been convicted,—

(a) by a Court in <sup>3</sup>[India], of an offence punishable under Chapter XII or Chapter XVII of this Code with imprisonment of either description for a term of three years or upwards, <sup>4</sup>\*\*\*

<sup>5</sup>\*

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shall be guilty of any offence punishable under either of those Chapters with like imprisonment for the like term, shall be subject for every such subsequent offence to <sup>6</sup>[imprisonment for life], or to imprisonment of either description for a term which may extend to ten years.]

#### CHAPTER IV

##### GENERAL EXCEPTIONS

**76. Act done by a person bound, or by mistake of fact believing himself bound, by law.**—Nothing is an offence which is done by a person who is, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith believes himself to be, bound by law to do it.

##### *Illustrations*

(a) A, a soldier, fires on a mob by the order of his superior officer, in conformity with the commands of the law. A has committed no offence.

(b) A, an officer of a Court of Justice, being ordered by that Court to arrest Y and, after due enquiry, believing Z to be Y, arrests Z. A has committed no offence.

**77. Act of Judge when acting judicially.**—Nothing is an offence which is done by a Judge when acting judicially in the exercise of any power which is, or which in good faith he believes to be, given to him by law.

**78. Act done pursuant to the judgment or order of Court.**—Nothing which is done in pursuance of, or which is warranted by the judgment or order of, a Court of Justice, if done whilst such judgment or order remains in force, is an offence, notwithstanding the Court may have had no jurisdiction to pass such judgment or order, provided the person doing the act in good faith believes that the Court had such jurisdiction.

**79. Act done by a person justified, or by mistake of fact believing himself justified, by law.**—Nothing is an offence which is done by any person who is justified by law, or who by reason of a mistake

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1. Subs. by Act 8 of 1862, s. 5, for “be less than a”.

2. Subs. by Act 3 of 1910, s. 2, for section 75.

3. The words “British India” have successively been subs. by the A. O. 1948, the A. O. 1950 and Act 3 of 1951, s. 3 and the Sch., (w.e.f. 1-4-1951) to read as above.

4. The word “or” omitted by Act 3 of 1951, s. 3 and the Sch. (w.e.f. 1-4-1951).

5. Cl. (b) omitted by s. 3 and the Sch., *ibid.* (w.e.f. 1-4-1951).

6. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).



of fact and not by reason of a mistake of law in good faith, believes himself to be justified by law, in doing it.

#### *Illustration*

A sees Z commit what appears to A to be a murder. A, in the exercise, to the best of his judgment exerted in good faith, of the power which the law gives to all persons of apprehending murderers in the fact, seizes Z, in order to bring Z before the proper authorities. A has committed no offence, though it may turn out that Z was acting in self-defence.

**80. Accident in doing a lawful act.**—Nothing is an offence which is done by accident or misfortune, and without any criminal intention or knowledge in the doing of a lawful act in a lawful manner by lawful means and with proper care and caution.

#### *Illustration*

A is at work with a hatchet; the head flies off and kills a man who is standing by. Here, if there was no want of proper caution on the part of A, his act is excusable and not an offence.

**81. Act likely to cause harm, but done without criminal intent, and to prevent other harm.**—Nothing is an offence merely by reason of its being done with the knowledge that it is likely to cause harm, if it be done without any criminal intention to cause harm, and in good faith for the purpose of preventing or avoiding other harm to person or property.

*Explanation.*—It is a question of fact in such a case whether the harm to be prevented or avoided was of such a nature and so imminent as to justify or excuse the risk of doing the act with the knowledge that it was likely to cause harm.

#### *Illustrations*

(a) A, the captain of a steam vessel, suddenly and without any fault or negligence on his part, finds himself in such a position that, before he can stop his vessel, he must inevitably run down a boat B, with twenty or thirty passengers on board, unless he changes the course of his vessel, and that, by changing his course, he must incur risk of running down a boat C with only two passengers on board, which he may possibly clear. Here, if A alters his course without any intention to run down the boat C and in good faith for the purpose of avoiding the danger to the passengers in the boat B, he is not guilty of an offence, though he may run down the boat C by doing an act which he knew was likely to cause that effect, if it be found as a matter of fact that the danger which he intended to avoid was such as to excuse him in incurring the risk of running down C.

(b) A, in a great fire, pulls down houses in order to prevent the conflagration from spreading. He does this with the intention in good faith of saving human life or property. Here, if it be found that the harm to be prevented was of such a nature and so imminent as to excuse A's act, A is not guilty of the offence.

**82. Act of a child under seven years of age.**—Nothing is an offence which is done by a child under seven years of age.

**83. Act of a child above seven and under twelve of immature understanding.**—Nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion.

**84. Act of a person of unsound mind.**—Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.

**85. Act of a person incapable of judgment by reason of intoxication caused against his will.**—Nothing is an offence which is done by a person who, at the time of doing it, is, by reason of intoxication, incapable of knowing the nature of the act, or that he is doing what is either wrong, or contrary to law; provided that the thing which intoxicated him was administered to him without his knowledge or against his will.

**86. Offence requiring a particular intent or knowledge committed by one who is intoxicated.**—In cases where an act done is not an offence unless done with a particular knowledge or intent, a person who does the act in a state of intoxication shall be liable to be dealt with as if he had the same knowledge as he would have had if he had not been intoxicated, unless the thing which intoxicated him was administered to him without his knowledge or against his will.

**87. Act not intended and not known to be likely to cause death or grievous hurt, done by consent.**—Nothing which is not intended to cause death, or grievous hurt, and which is not known by the doer to be likely to cause death or grievous hurt, is an offence by reason of any harm which it may cause,

or be intended by the doer to cause, to any person, above eighteen years of age, who has given consent, whether express or implied, to suffer that harm; or by reason of any harm which it may be known by the doer to be likely to cause to any such person who has consented to take the risk of that harm.

*Illustration*

A and Z agree to fence with each other for amusement. This agreement implies the consent of each to suffer any harm which in the course of such fencing, may be caused without foul play; and if A, while playing fairly, hurts Z, A commits no offence.

**88. Act not intended to cause death, done by consent in good faith for person's benefit.**—Nothing, which is not intended to cause death, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit it is done in good faith, and who has given a consent, whether express or implied, to suffer that harm, or to take the risk of that harm.

*Illustration*

A, a surgeon, knowing that a particular operation is likely to cause the death of Z, who suffers under the painful complaint, but not intending to cause Z's death, and intending, in good faith, Z's benefit, performs that operation on Z, with Z's consent. A has committed no offence.

**89. Act done in good faith for benefit of child or insane person, by or by consent of guardian.**—Nothing which is done in good faith for the benefit of a person under twelve years of age, or of unsound mind, by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the doer to cause or be known by the doer to be likely to cause to that person: Provided—

**Provisos.** *First.*—That this exception shall not extend to the intentional causing of death, or to the attempting to cause death;

*Secondly.*—That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity;

*Thirdly.*—That this exception shall not extend to the voluntary causing of grievous hurt, or to the attempting to cause grievous hurt, unless it be for the purpose of preventing death or grievous hurt; or the curing of any grievous disease or infirmity;

*Fourthly.*—That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

*Illustration*

A, in good faith, for his child's benefit without his child's consent, has his child cut for the stone by a surgeon knowing it to be likely that the operation will cause the child's death, but not intending to cause the child's death. A is within the exception, inasmuch as his object was the cure of the child.

**90. Consent known to be given under fear or misconception.**—A consent is not such a consent as is intended by any section of this Code, if the consent is given by a person under fear of injury, or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception; or

**Consent of insane person.**—if the consent is given by a person who, from unsoundness of mind, or intoxication, is unable to understand the nature and consequence of that to which he gives his consent; or

**Consent of child.**—unless the contrary appears from the context, if the consent is given by a person who is under twelve years of age.

**91. Exclusion of acts which are offences independently of harm cause.**—The exceptions in sections 87, 88 and 89 do not extend to acts which are offences independently of any harm which they may cause, or be intended to cause, or be known to be likely to cause, to the person giving the consent, or on whose behalf the consent is given.

*Illustration*

Causing miscarriage (unless caused in good faith for the purpose of saving the life of the woman) is an offence independently of any harm which it may cause or be intended to cause to the woman. Therefore, it is not an offence “by reason of such harm”; and the consent of the woman or of her guardian to the causing of such miscarriage does not justify the act.

**92. Act done in good faith for benefit of a person without consent.**—Nothing is an offence by reason of any harm which it may cause to a person for whose benefit it is done in good faith, even without that person's consent, if the circumstances are such that it is impossible for that person to signify consent, or if that person is incapable of giving consent, and has no guardian or other person in lawful charge of him from whom it is possible to obtain consent in time for the thing to be done with benefit: Provided—

**Provisos.** *First.*—That this exception shall not extend to the intentional causing of death, or the attempting to cause death;

*Secondly.*—That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity;

*Thirdly.*—That this exception shall not extend to the voluntary causing of hurt, or to the attempting to cause hurt, for any purpose other than the preventing of death or hurt;

*Fourthly.*—That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

#### *Illustrations*

(a) Z is thrown from his horse, and is insensible. A, a surgeon, finds that Z requires to be trepanned. A, not intending Z's death, but in good faith, for Z's benefit, performs the trepan before Z recovers his power of judging for himself. A has committed no offence.

(b) Z is carried off by a tiger. A fires at the tiger knowing it to be likely that the shot may kill Z, but not intending to kill Z, and in good faith intending Z's benefit. A's ball gives Z a mortal wound. A has committed no offence.

(c) A, a surgeon, sees a child suffer an accident which is likely to prove fatal unless an operation be immediately performed. There is no time to apply to the child's guardian. A performs the operation in spite of the entreaties of the child, intending, in good faith, the child's benefit. A has committed no offence.

(d) A is in a house which is on fire, with Z, a child. People below hold out a blanket. A drops the child from the house stop, knowing it to be likely that the fall may kill the child, but not intending to kill the child, and intending, in good faith, the child's benefit. Here, even if the child is killed by the fall, A has committed no offence.

**Explanation.**—Mere pecuniary benefit is not benefit within the meaning of sections 88, 89 and 92.

**93. Communication made in good faith.**—No communication made in good faith is an offence by reason of any harm to the person to whom it is made, if it is made for the benefit of that person.

#### *Illustration*

A, a surgeon, in good faith, communicates to a patient his opinion that he cannot live. The patient dies in consequence of the shock. A has committed no offence, though he knew it to be likely that the communication might cause the patient's death.

**94. Act to which a person is compelled by threats.**—Except murder, and offences against the State punishable with death, nothing is an offence which is done by a person who is compelled to do it by threats, which, at the time of doing it, reasonably cause the apprehension that instant death to that person will otherwise be the consequence: Provided the person doing the act did not of his own accord, or from a reasonable apprehension of harm to himself short of instant death, place himself in the situation by which he became subject to such constraint.

**Explanation 1.**—A person who, of his own accord, or by reason of a threat of being beaten, joins a gang of dacoits, knowing their character, is not entitled to the benefit of this exception, on the ground of his having been compelled by his associates to do anything that is an offence by law.

**Explanation 2.**—A person seized by a gang of dacoits, and forced, by threat of instant death, to do a thing which is an offence by law; for example, a smith compelled to take his tools and to force the door of a house for the dacoits to enter and plunder it, is entitled to the benefit of this exception.

**95. Act causing slight harm.**—Nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm.

#### *Of the Right of Private Defence*

**96. Things done in private defence.**—Nothing is an offence which is done in the exercise of the right of private defence.

**97. Right of private defence of the body and of property.**—Every person has a right, subject to the restrictions contained in section 99, to defend—

*First.*—His own body, and the body of any other person, against any offence affecting the human body;

*Secondly.*—The property, whether movable or immovable, of himself or of any other person, against any act which is an offence falling under the definition of theft, robbery, mischief or criminal trespass, or which is an attempt to commit theft, robbery, mischief or criminal trespass.

**98. Right of private defence against the act of a person of unsound mind, etc.**—When an act, which would otherwise be a certain offence, is not that offence, by reason of the youth, the want of maturity of understanding, the unsoundness of mind or the intoxication of the person doing that act, or by reason of any misconception on the part of that person, every person has the same right of private defence against that act which he would have if the act were that offence.

#### *Illustrations*

(a) Z, under the influence of madness, attempts to kill A; Z is guilty of no offence. But A has the same right of private defence which he would have if Z were sane.

(b) A enters by night a house which he is legally entitled to enter. Z, in good faith, taking A for a house-breaker, attacks A. Here Z, by attacking A under this misconception, commits no offence. But A has the same right of private defence against Z, which he would have if Z were not acting under that misconception.

**99. Acts against which there is no right of private defence.**—There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done by a public servant acting in good faith under colour of his office, though that act may not be strictly justifiable by law.

There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by the direction of a public servant acting in good faith under colour of his office though that direction may not be strictly justifiable by law.

There is no right of private defence in cases in which there is time to have recourse to protection of the public authorities.

**Extent to which the right may be exercised.**—The right of private defence in no case extends to the inflicting of more harm than it is necessary to inflict for the purpose of defence.

*Explanation 1.*—A person is not deprived of the right of private defence against an act done, or attempted to be done, by a public servant, as such, unless he knows or has reason to believe, that the person doing the act is such public servant.

*Explanation 2.*—A person is not deprived of the right of private defence against an act done, or attempted to be done, by the direction of a public servant, unless he knows, or has reason to believe, that the person doing the act is acting by such direction, or unless such person states the authority under which he acts, or if he has authority in writing, unless he produces such authority, if demanded.

**100. When the right of private defence of the body extends to causing death.**—The right of private defence of the body extends, under the restrictions mentioned in the last preceding section, to the voluntary causing of death or of any other harm to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely:—

*First.*—Such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault;

*Secondly.*—Such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault;

*Thirdly.*—An assault with the intention of committing rape;

*Fourthly.*—An assault with the intention of gratifying unnatural lust;

*Fifthly.*—An assault with the intention of kidnapping or abducting;

*Sixthly.*—An assault with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release.

<sup>1</sup>[*Seventhly*.—An act of throwing or administering acid or an attempt to throw or administer acid which may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such act.]

**101. When such right extends to causing any harm other than death.**—If the offence be not of any of the descriptions enumerated in the last preceding section, the right of private defence of the body does not extend to the voluntary causing of death to the assailant, but does extend, under the restrictions mentioned in section 99 to the voluntary causing to the assailant of any harm other than death.

**102. Commencement and continuance of the right of private defence of the body.**—The right of private defence of the body commences as soon as a reasonable apprehension of danger to the body arises from an attempt or threat to commit the offence though the offence may not have been committed; and it continues as long as such apprehension of danger to the body continues.

**103. When the right of private defence of property extends to causing death.**—The right of private defence of property extends, under the restrictions mentioned in section 99, to the voluntary causing of death or of any other harm to the wrong-doer, if the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right, be an offence of any of the descriptions hereinafter enumerated, namely:—

*First*.—Robbery;

*Secondly*.—House-breaking by night;

*Thirdly*.—Mischief by fire committed on any building, tent or vessel, which building, tent or vessel is used as a human dwelling or as a place for the custody of property;

*Fourthly*.—Theft, mischief or house-trespass, under such circumstances as may reasonably cause apprehension that death or grievous hurt will be the consequence, if such right of private defence is not exercised.

## STATE AMENDMENTS

### Karnataka

(1) In section 103, in clause *Thirdly*, —

(i) after the words “mischief by fire”, the words “or any explosive substance” shall be inserted;

(ii) after the words “as a human dwelling, or” the words “as a place of worship, or” shall be inserted.

(2) After clause *Fourthly*, the following clause shall be inserted namely:—

**“Fifthly.**— Mischief by fire or any explosive substance committed on any property used or intended to be used for the purpose of Government or any local authority, statutory body or company owned or controlled by Government or railway or any vehicle used or adapted to be used for the carriage of passengers for hire or reward”.

[Vide Karnataka Act 8 of 1972, sec. 2, (w.e.f. 7-10-1972)].

**104. When such right extends to causing any harm other than death.**—If the offence, the committing of which, or the attempting to commit which occasions the exercise of the right of private defence, be theft, mischief, or criminal trespass, not of any of the descriptions enumerated in the last preceding section, that right does not extend to the voluntary causing of death, but does extend, subject to the restrictions mentioned in section 99, to the voluntary causing to the wrong-doer of any harm other than death.

**105. Commencement and continuance of the right of private defence of property.**—The right of private defence of property commences when a reasonable apprehension of danger to the property commences.

The right of private defence of property against theft continues till the offender has effected his retreat with the property or either the assistance of the public authorities is obtained, or the property has been recovered.

The right of private defence of property against robbery continues as long as the offender causes or attempts to cause to any person death or hurt or wrongful restraint or as long as the fear of instant death or of instant hurt or of instant personal restraint continues.

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1. Ins. by Act 13 of 2013, s. 2 (w.e.f. 3-2-2013).

The right of private defence of property against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief.

The right of private defence of property against house-breaking by night continues as long as the house-trespass which has been begun by such house-breaking continues.

**106. Right of private defence against deadly assault when there is risk of harm to innocent person.**—If in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death, the defender be so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk.

#### *Illustration*

A is attacked by a mob who attempt to murder him. He cannot effectually exercise his right of private defence without firing on the mob, and he cannot fire without risk of harming young children who are mingled with the mob. A commits no offence if by so firing he harms any of the children.

## CHAPTER V

### OF ABETMENT

**107. Abetment of a thing.**—A person abets the doing of a thing, who—

*First.*—Instigates any person to do that thing; or

*Secondly.*—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

*Thirdly.*—Intentionally aids, by any act or illegal omission, the doing of that thing.

*Explanation 1.*—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

#### *Illustration*

A, a public officer, is authorised by a warrant from a Court of Justice to apprehend Z. B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

*Explanation 2.*—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

**108. Abettor.**—A person abets an offence, who abets either the commission of an offence, or the commission of an act which would be an offence, if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor.

*Explanation 1.*—The abetment of the illegal omission of an act may amount to an offence although the abettor may not himself be bound to do that act.

*Explanation 2.*—To constitute the offence of abetment it is not necessary that the act abetted should be committed, or that the effect requisite to constitute the offence should be caused.

#### *Illustrations*

(a) A instigates B to murder C. B refuses to do so. A is guilty of abetting B to commit murder.

(b) A instigates B to murder D. B in pursuance of the instigation stabs D. D recovers from the wound. A is guilty of instigating B to commit murder.

*Explanation 3.*—It is not necessary that the person abetted should be capable by law of committing an offence, or that he should have the same guilty intention or knowledge as that of the abettor or any guilty intention or knowledge.

### *Illustrations*

(a) A, with a guilty intention, abets a child or a lunatic to commit an act which would be an offence, if committed by a person capable by law of committing an offence, and having the same intention as A. Here A, whether the act be committed or not, is guilty of abetting an offence.

(b) A, with the intention of murdering Z, instigates B, a child under seven years of age, to do an act which causes Z's death. B, in consequence of the abetment, does the act in the absence of A and thereby causes Z's death. Here, though B was not capable by law of committing an offence, A is liable to be punished in the same manner as if B had been capable by law of committing an offence, and had committed murder, and he is therefore subject to the punishment of death.

(c) A instigates B to set fire to a dwelling-house. B, in consequence of the unsoundness of his mind, being incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house in consequence of A's instigation. B has committed no offence, but A is guilty of abetting the offence of setting fire to a dwelling-house, and is liable to the punishment provided for that offence.

(d) A, intending to cause a theft to be committed, instigates B to take property belonging to Z out of Z's possession. A induces B to believe that the property belongs to A. B takes the property out of Z's possession, in good faith, believing it to be A's property. B, acting under this misconception, does not take dishonestly, and therefore does not commit theft. But A is guilty of abetting theft, and is liable to the same punishment as if B had committed theft.

*Explanation 4.*—The abetment of an offence being an offence, the abetment of such an abetment is also an offence.

### *Illustration*

A instigates B to instigate C to murder Z. B accordingly instigates C to murder Z, and C commits that offence in consequence of B's instigation. B is liable to be punished for his offence with the punishment for murder; and, as A instigated B to commit the offence, A is also liable to the same punishment.

*Explanation 5.*—It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he engages in the conspiracy in pursuance of which the offence is committed.

### *Illustration*

A consents with B a plan for poisoning Z. It is agreed that A shall administer the poison. B then explains the plan to C mentioning that a third person is to administer the poison, but without mentioning A's name. C agrees to procure the poison, and procures and delivers it to B for the purpose of its being used in the manner explained. A administers the poison; Z dies in consequence. Here, though A and C have not conspired together, yet C has been engaged in the conspiracy in pursuance of which Z has been murdered. C has therefore committed the offence defined in this section and is liable to the punishment for murder.

<sup>1</sup>[108A. **Abetment in India of offences outside India.**—A person abets an offence within the meaning of this Code who, in <sup>2</sup>[India], abets the commission of any act without and beyond <sup>2</sup>[India] which would constitute an offence if committed in <sup>2</sup>[India].

### *Illustration*

A, in <sup>2</sup>[India], instigates B, a foreigner in Goa, to commit a murder in Goa, A is guilty of abetting murder.]

**109. Punishment of abetment if the act abetted is committed in consequence and where no express provision is made for its punishment.**—Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence.

*Explanation.*—An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

### *Illustrations*

(a) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B accepts the bribe. A has abetted the offence defined in section 161.

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1. Added by Act 4 of 1898, s. 3.

2. The words "British India" have successively been subs. by the A.O. 1948, the A.O. 1950 and Act 3 of 1951, s. 3 and the Sch., to read as above.

(b) A instigates B to give false evidence. B, in consequence of the instigation, commits that offence. A is guilty of abetting that offence, and is liable to the same punishment as B.

(c) A and B conspire to poison Z. A, in pursuance of the conspiracy, procures the poison and delivers it to B in order that he may administer it to Z. B, in pursuance of the conspiracy, administers the poison to Z in A's absence and thereby causes Z's death. Here B is guilty of murder. A is guilty of abetting that offence by conspiracy, and is liable to the punishment for murder.

**110. Punishment of abetment if person abetted does act with different intention from that of abettor.**—Whoever abets the commission of an offence shall, if the person abetted does the act with a different intention or knowledge from that of the abettor, be punished with the punishment provided for the offence which would have been committed if the act had been done with the intention or knowledge of the abettor and with no other.

**111. Liability of abettor when one act abetted and different act done.**—When an act is abetted and a different act is done, the abettor is liable for the act done, in the same manner and to the same extent as if he had directly abetted it:

Provided the act done was a probable consequence of the abetment, and was committed under the influence of the instigation, or with the aid or in pursuance of the conspiracy which constituted the abetment.

#### *Illustrations*

(a) A instigates a child to put poison into the food of Z, and gives him poison for that purpose. The child, in consequence of the instigation, by mistake puts the poison into the food of Y, which is by the side of that of Z. Here if the child was acting under the influence of A's instigation, and the act done was under the circumstances a probable consequence of the abetment, A is liable in the same manner and to the same extent as if he had instigated the child to put the poison into the food of Y.

(b) A instigates B to burn Z's house B sets fire to the house and at the same time commits theft of property there. A, though guilty of abetting the burning of the house, is not guilty of abetting the theft; for the theft was a distinct act, and not a probable consequence of the burning.

(c) A instigates B and C to break into an inhabited house at midnight for the purpose of robbery, and provides them with arms for that purpose. B and C break into the house, and being resisted by Z, one of the inmates, murder Z. Here, if that murder was the probable consequence of the abetment, A is liable to the punishment provided for murder.

**112. Abettor when liable to cumulative punishment for act abetted and for act done.**—If the act for which the abettor is liable under the last preceding section is committed in addition to the act abetted, and constitute a distinct offence, the abettor is liable to punishment for each of the offences.

#### *Illustration*

A instigates B to resist by force a distress made by a public servant. B, in consequence resists that distress. In offering the resistance, B voluntarily causes grievous hurt to the officer executing the distress. As B has committed both the offence of resisting the distress, and the offence of voluntarily causing grievous hurt, B is liable to punishment for both these offences; and, if A knew that B was likely voluntarily to cause grievous hurt in resisting the distress A will also be liable to punishment for each of the offences.

**113. Liability of abettor for an effect caused by the act abetted different from that intended by the abettor.**—When an act is abetted with the intention on the part of the abettor of causing a particular effect, and an act for which the abettor is liable in consequence of the abetment, causes a different effect from that intended by the abettor, the abettor is liable for the effect caused, in the same manner and to the same extent as if he had abetted the act with the intention of causing that effect, provided he knew that the act abetted was likely to cause that effect.

#### *Illustration*

A instigates B to cause grievous hurt to Z. B, in consequence of the instigation, causes grievous hurt to Z. Z dies in consequence. Here, if A knew that the grievous hurt abetted was likely to cause death, A is liable to be punished with the punishment provided for murder.

**114. Abettor present when offence is committed.**—Whenever any person who is absent would be liable to be punished as an abettor, is present when the act or offence for which he would be punishable in consequence of the abetment is committed, he shall be deemed to have committed such act or offence.



**115. Abetment of offence punishable with death or imprisonment for life—if offence not committed.**—Whoever abets the commission of an offence punishable with death or <sup>1</sup>[imprisonment for life], shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

**if act causing harm be done in consequence.**—and if any act for which the abettor is liable in consequence of the abetment, and which causes hurt to any person, is done, the abettor shall be liable to imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

#### *Illustration*

A instigates B to murder Z. The offence is not committed. If B had murdered Z, he would have been subject to the punishment of death or <sup>1</sup>[imprisonment for life]. Therefore A is liable to imprisonment for a term which may extend to seven years and also to a fine, and if any hurt be done to Z in consequence of the abetment, he will be liable to imprisonment for a term which may extend to fourteen years, and to fine.

**116. Abetment of offence punishable with imprisonment—if offence be not committed.**—Whoever abets an offence punishable with imprisonment shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of any description provided for that offence for a term which may extend to one-fourth part of the longest term provided for that offence; or with such fine as is provided for that offence, or with both;

**if abettor or person abetted be a public servant whose duty it is to prevent offence.**—and if the abettor or the person abetted is a public servant, whose duty it is to prevent the commission of such offence, the abettor shall be punished with imprisonment of any description provided for that offence, for a term which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

#### *Illustrations*

(a) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B refuses to accept the bribe. A is punishable under this section.

(b) A instigates B to give false evidence. Here, if B does not give false evidence, A has nevertheless committed the offence defined in this section, and is punishable accordingly.

(c) A, a police-officer, whose duty it is to prevent robbery, abets the commission of robbery. Here, though the robbery be not committed, A is liable to one-half of the longest term of imprisonment provided for that offence, and also to fine.

(d) B abets the commission of a robbery by A, a police-officer, whose duty it is to prevent that offence. Here, though the robbery be not committed, B is liable to one-half of the longest term of imprisonment provided for the offence of robbery, and also to fine.

**117. Abetting commission of offence by the public or by more than ten persons.**—Whoever abets the commission of an offence by the public generally or by any number or class of persons exceeding ten, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

#### *Illustration*

A affixes in a public place a placard instigating a sect consisting of more than ten members to meet at a certain time and place, for the purpose of attacking the members of an adverse sect, while engaged in a procession. A has committed the offence defined in this section.

**118. Concealing design to commit offence punishable with death or imprisonment for life.**—Whoever intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with death or <sup>1</sup>[imprisonment for life],

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1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

<sup>1</sup>[voluntarily conceals by any act or omission or by the use of encryption or any other information hiding tool, the existence of a design] to commit such offence or makes any representation which he knows to be false respecting such design;

**if offence be committed; if offence be not committed.**—shall, if that offence be committed, be punished with imprisonment of either description for a term which may extend to seven years, or, if the offence be not committed, with imprisonment of either description, for a term which may extend to three years; and in either case shall also be liable to fine.

*Illustration*

A, knowing that dacoity is about to be committed at B, falsely informs the Magistrate that a dacoity is about to be committed at C, a place in an opposite direction, and thereby misleads the Magistrate with intent to facilitate the commission of the offence. The dacoity is committed at B in pursuance of the design. A is punishable under this section.

**119. Public servant concealing design to commit offence which it is his duty to prevent.**—Whoever, being a public servant intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence which it is his duty as such public servant to prevent,

<sup>1</sup>[voluntarily conceals, by any act or illegal omission or by the use of encryption or any other information hiding tool, the existence of a design] to commit such offence or makes any representation which he knows to be false respecting such design,

**if offence be committed.**—shall, if the offence be committed, be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the longest term of such imprisonment, or with such fine as is provided for that offence, or with both;

**if offence be punishable with death, etc.**—or, if the offence be punishable with death or <sup>2</sup>[imprisonment for life], with imprisonment of either description for a term which may extend to ten years;

**if offence be not committed.**—or, if the offence be not committed, shall be punished with imprisonment of any description provided for the offence for a term which may extend to one-fourth part of the longest term of such imprisonment or with such fine as is provided for the offence, or with both.

*Illustration*

A, an officer of police, being legally bound to give information of all designs to commit robbery which may come to his knowledge, and knowing that B designs to commit robbery, omits to give such information, with intent to facilitate the commission of that offence. Here A has by an illegal omission concealed the existence of B's design, and is liable to punishment according to the provision of this section.

**120. Concealing design to commit offence punishable with imprisonment.**—Whoever, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with imprisonment,

voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design,

**if offence be committed; if offence be not committed.**—shall, if the offence be committed, be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth, and, if the offence be not committed, to one-eighth of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both.

<sup>3</sup>[CHAPTER VA

CRIMINAL CONSPIRACY

**120A. Definition of criminal conspiracy.**—When two or more persons agree to do, or cause to be done,—

(1) an illegal act, or

(2) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy:

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1. Subs. by Act 10 of 2009, s. 51, for “voluntarily conceals, by any act or illegal omission, the existence of a design” (w.e.f. 27-10-2009).

2. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

3. Ins. by Act 8 of 1913, s. 3.

Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof.

*Explanation.*—It is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object.

**120B. Punishment of criminal conspiracy.**—(1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, <sup>1</sup>[imprisonment for life] or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.]

## CHAPTER VI

### OF OFFENCES AGAINST THE STATE

**121. Waging or attempting to wage war or abetting waging of war against the Government of India.**—Whoever wages war against the <sup>2</sup>[Government of India], or attempts to wage such war, or abets the waging of such war, shall be punished with death, or <sup>1</sup>[imprisonment for life] <sup>3</sup>[and shall also be liable to fine].

<sup>4</sup>[*Illustration*]

<sup>5</sup>\*\*\*A joins an insurrection against the <sup>2</sup>[Government of India]. A has committed the offence defined in this section.

<sup>6</sup>\* \* \* \* \*

<sup>7</sup>[**121A. Conspiracy to commit offences punishable by section 121.**—Whoever within or without <sup>8</sup>[India] conspires to commit any of the offences punishable by section 121, <sup>9</sup>\*\*\* or conspires to overawe, by means of criminal force or the show of criminal force, <sup>10</sup>[the Central Government or any <sup>11</sup>[State] Government <sup>12</sup>\*\*\*], shall be punished with <sup>13</sup>[imprisonment for life], or with imprisonment of either description which may extend to ten years, <sup>14</sup>[and shall also be liable to fine].

*Explanation.*—To constitute a conspiracy under this section, it is not necessary that any act or illegal omission shall take place in pursuance thereof.]

**122. Collecting arms, etc., with intention of waging war against the Government of India.**—Whoever collects men, arms or ammunition or otherwise prepares to wage war with the intention of either waging or being prepared to wage war against the <sup>2</sup>[Government of India], shall be punished with <sup>1</sup>[imprisonment for life] or imprisonment of either description for a term not exceeding ten years, <sup>15</sup>[and shall also be liable to fine].

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1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation” (w.e.f. 1-1-1956).

2. Subs. by the A. O. 1950, for “Queen”.

3. Subs. by Act 16 of 1921, s. 2, for “and shall forfeit all his property”.

4. Subs. by Act 36 of 1957, s. 3 and the Second Sch., for “*Illustrations*”

5. The brackets and letter “(a)” omitted by s. 3 and the Second Sch., *ibid*.

6. *Illustration (b)* omitted, by the A. O. 1950.

7. Ins. by Act 27 of 1870, s. 4.

8. The words “British India” have successively been subs. by the A. O. 1948, the A. O. 1950 and Act 3 of 1951, s. 3 and the Sch., to read as above.

9. The words “or to deprive the Queen of the sovereignty of the Provinces or of any part thereof” omitted by the A. O. 1950.

10. Subs. by the A. O. 1937, for “the G. of I, or any L. G”.

11. Subs. by the A. O. 1950, for “Provincial”.

12. The words “or the Government of Burma” omitted by the A. O. 1948.

13. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life or any shorter term” (w.e.f. 1-1-1956).

14. Ins. by Act 16 of 1921, s. 3.

15. Subs. by Act 16 of 1921, s. 2, for “and shall forfeit all his property”.

**123. Concealing with intent to facilitate design to wage war.**—Whoever, by any act, or by any illegal omission, conceals the existence of a design to wage war against the <sup>1</sup>[Government of India], intending by such concealment to facilitate, or knowing it to be likely that such concealment will facilitate, the waging of such war, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**124. Assaulting President, Governor, etc., with intent to compel or restrain the exercise of any lawful power.**—Whoever, with the intention of inducing or compelling the <sup>2</sup>[President] of India, or <sup>3</sup>[Governor <sup>4</sup>\*\*\*] of any <sup>5</sup>[State], <sup>6</sup>\*\*\* <sup>7</sup>\*\*\* <sup>8</sup>\*\*\* to exercise or refrain from exercising in any manner any of the lawful powers of such <sup>9</sup>[President or <sup>3</sup>[Governor <sup>6</sup>\*\*\*]],

assaults or wrongfully restrains, or attempts wrongfully to restrain, or overawes, by means of criminal force or the show of criminal force, or attempts so to overawe, such <sup>11</sup>[President or <sup>3</sup>[Governor <sup>6</sup>\*\*\*]],

shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

<sup>10</sup>[**124A. Sedition.**—Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, <sup>11</sup>\*\*\*the Government established by law in <sup>12</sup>[India], <sup>13</sup>\*\*\*shall be punished with <sup>14</sup>[imprisonment for life], to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.

*Explanation 1.*—The expression “disaffection” includes disloyalty and all feelings of enmity.

*Explanation 2.*—Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

*Explanation 3.*—Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.]

**125. Waging war against any Asiatic Power in alliance with the Government of India.**—Whoever wages war against the Government of any Asiatic Power in alliance or at peace with the <sup>1</sup>[Government of India] or attempts to wage such war, or abets the waging of such war, shall be punished with <sup>14</sup>[imprisonment for life], to which fine may be added, or with imprisonment of either description for a term which may extend to seven years, to which fine may be added, or with fine.

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1. Subs. by the A. O 1950, for “Queen”.

2. Subs. by the *ibid.*, for “Governor General”.

3. Subs. by Act 3 of 1951, s. 3 and the Sch., for “Governor”.

4. The words “or Rajpramukh” omitted by the A. O. 1956.

5. Subs. by the A. O. 1950, for “Province” which had been subs. by the A. O. 1937, for “Presidency”.

6. The words “or a Lieutenant-Governor” omitted by the A. O. 1937.

7. The words “or a Member of the Council of the Governor General of India” omitted by the A.O. 1948.

8. The words “or of the Council of any Presidency” omitted by the A. O. 1937.

9. The words “Governor General, Governor, Lieutenant-Governor or Member of Council” have successively been amended by the A.O. 1937, the A. O. 1948 and the A. O. 1950 to read as above.

10. Ins. by Act 27 of 1870, s. 5 and subs. by Act 4 of 1898, s. 4, for s. 124A.

11. The words “Her Majesty or” omitted by the A.O. 1950. The words “or the Crown Representative” ins. after the word “Majesty” by the A. O. 1937 were omitted by the A. O. 1948.

12. The words “British India” have successively been subs. by the A. O. 1948, the A. O. 1950 and Act 3 of 1951, s. 3 and the Sch., to read as above.

13. The words “or British Burma” ins. by the A. O. 1937 and omitted by the A. O. 1948.

14. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life or any shorter term” (w.e.f. 1-1-1956).

**126. Committing depredation on territories of Power at peace with the Government of India.**—Whoever commits depredation, or makes preparations to commit depredation, on the territories of any Power in alliance or at peace with the <sup>1</sup>[Government of India], shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of any property used or intended to be used in committing such depredation, or acquired by such depredation.

**127. Receiving property taken by war or depredation mentioned in sections 125 and 126.**—Whoever receives any property knowing the same to have been taken in the commission of any of the offences mentioned in sections 125 and 126, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of the property so received.

**128. Public servant voluntarily allowing prisoner of State or war to escape.**—Whoever, being a public servant and having the custody of any State prisoner or prisoner of war, voluntarily allows such prisoner to escape from any place in which such prisoner is confined, shall be punished with <sup>2</sup>[imprisonment for life], or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**129. Public servant negligently suffering such prisoner to escape.**—Whoever, being a public servant and having the custody of any State prisoner or prisoner of war, negligently suffers such prisoner to escape from any place of confinement in which such prisoner is confined, shall be punished with simple imprisonment for a term which may extend to three years, and shall also be liable to fine.

**130. Aiding escape of, rescuing or harbouring such prisoner.**—Whoever knowingly aids or assists any State prisoner or prisoner of war in escaping from lawful custody, or rescues or attempts to rescue any such prisoner, or harbours or conceals any such prisoner who has escaped from lawful custody, or offers or attempts to offer any resistance to the recapture of such prisoner shall be punished with <sup>2</sup>[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

*Explanation.*—A State prisoner or prisoner of war, who is permitted to be at large on his parole within certain limits in <sup>3</sup>[India], is said to escape from lawful custody if he goes beyond the limits within which he is allowed to be at large.

## CHAPTER VII

### OF OFFENCES RELATING TO THE ARMY, <sup>4</sup>[NAVY AND AIR FORCE]

**131. Abetting mutiny, or attempting to seduce a soldier, sailor or airman from his duty.**—Whoever abets the committing of mutiny by an officer, soldier, <sup>5</sup>[sailor or airman], in the Army, <sup>6</sup>[Navy or Air Force] of the <sup>1</sup>[Government of India] or attempts to seduce any such officer, soldier, <sup>5</sup>[sailor or airman] from his allegiance or his duty, shall be punished with <sup>2</sup>[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

<sup>7</sup>[*Explanation.*—In this section the words “officer”, <sup>8</sup>[“soldier”, <sup>9</sup>[“sailor”] and “airman”] include any

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1. Subs. by the A. O. 1950, for “Queen”.

2. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

3. The words “British India” have successively been subs. by the A. O. 1948, the A. O. 1950 and Act 3 of 1951, s. 3 and the Sch., to read as above.

4. Subs. by Act 10 of 1927, s. 2 and the First Sch., for “and Navy”.

5. Subs. by s. 2 and the First Sch., *ibid.*, for “or sailor”.

6. Subs. by s. 2 and the First Sch., *ibid.*, for “or Navy”.

7. Ins. by Act 27 of 1870, s. 6.

8. Subs. by Act 10 of 1927, s. 2 and the First Sch., for “and soldier”

9. Ins. by Act 35 of 1934, s. 2 and Sch.

person subject to the <sup>1</sup>[Army Act, <sup>2</sup>[the Army Act, 1950 (46 of 1950)], <sup>3</sup>[the Naval Discipline Act, <sup>4</sup>\*\*\*the <sup>5</sup>Indian Navy (Discipline) Act, 1934 (34 of 1934)] <sup>6</sup>[the Air Force Act or <sup>7</sup>[the Air Force Act, 1950 (45 of 1950)]]], as the case may be.]

**132. Abetment of mutiny, if mutiny is committed in consequence thereof.**—Whoever abets the committing of mutiny by an officer, soldier, <sup>8</sup>[sailor or airman], in the Army, <sup>9</sup>[Navy or Air Force] of the <sup>10</sup>[Government of India], shall, if mutiny be committed in consequence of that abetment, be punished with death or with <sup>11</sup>[imprisonment for life], or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**133. Abetment of assault by soldier, sailor or airman on his superior officer, when in execution of his office.**—Whoever abets an assault by an officer, soldier, <sup>8</sup>[sailor or airman], in the Army, <sup>9</sup>[Navy or Air Force] of the <sup>10</sup>[Government of India], on any superior officer being in the execution of his office, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

**134. Abetment of such assault, if the assault is committed.**—Whoever abets an assault by an officer, soldier, <sup>8</sup>[sailor or airman], in the Army, <sup>9</sup>[Navy or Air Force] of the <sup>10</sup>[Government of India], on any superior officer being in the execution of his office, shall, if such assault be committed in consequence of that abetment be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**135. Abetment of desertion of soldier, sailor or airman.**—Whoever abets the desertion of any officer, soldier, <sup>8</sup>[sailor or airman], in the Army, <sup>9</sup>[Navy or Air Force] of the <sup>10</sup>[Government of India], shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**136. Harboursing deserter.**—Whoever, except as hereinafter excepted, knowing or having reason to believe that an officer, soldier, <sup>8</sup>[sailor or airman], in the Army, <sup>9</sup>[Navy or Air Force] of the <sup>10</sup>[Government of India], has deserted, harbours such officer, soldier, <sup>8</sup>[sailor or airman], shall be punished with imprisonment of either description for a term which may extend to two years, or with fine or with both.

*Exception.*—This provision does not extend to the case in which the harbour is given by a wife to her husband.

**137. Deserter concealed on board merchant vessel through negligence of master.**—The master or person in charge of a merchant vessel, on board of which any deserter from the Army, <sup>9</sup>[Navy or Air Force] of the <sup>10</sup>[Government of India] is concealed, shall, though ignorant of such concealment, be liable to a penalty not exceeding five hundred rupees, if he might have known of such concealment but for some neglect of his duty as such master or person in charge, or but for some want of discipline on board of the vessel.

**138. Abetment of act of insubordination by soldier, sailor or airman.**—Whoever abets what he knows to be an act of insubordination by an officer, soldier, <sup>8</sup>[sailor or airman], in the Army, <sup>9</sup>[Navy or Air Force], of the <sup>10</sup>[Government of India], shall, if such act of insubordination be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

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1. Subs. by Act 10 of 1927, s. 2 and the First Sch., for “Articles of War for the better government of Her Majesty’s Army, or to the Articles of War contained in Act No. 5 of 1869”.

2. Subs. by Act 3 of 1951, s. 3 and the Sch., for “the Indian Army Act, 1911”.

3. Ins. by Act 35 of 1934, s. 2 and the Sch.

4. The words “or that Act as modified by” omitted by the A. O. 1950.

5. Now *see* the Navy Act, 1957 (62 of 1957).

6. Subs. by Act 14 of 1932, s. 130 and the Sch., for “or the Air Force Act”.

7. Subs. by Act 3 of 1951, s. 3 and the Sch., for “the Indian Air Force Act, 1932”.

8. Subs. by Act 10 of 1927, s. 2 and the First Sch., for “or sailor”.

9. Subs. by s. 2 and the First Sch., *ibid.*, for “or Navy”.

10. Subs. by the A. O. 1950, for “Queen”.

11. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

**138A.** [*Application of foregoing sections to the Indian Marine Service.*] *Rep. by the Amending Act, 1934 (35 of 1934), s. 2 and Sch.*

**139. Persons subject to certain Acts.**—No person subject to <sup>1</sup>[the Army Act, <sup>2</sup>[the Army Act, 1950 (46 of 1950)], the Naval Discipline Act, <sup>3</sup>[<sup>4</sup>\*\*\* <sup>5</sup>[the Indian Navy (Discipline) Act, 1934 (34 of 1934)], <sup>6</sup>[the Air Force Act or <sup>7</sup>[the Air Force Act, 1950 (45 of 1950)]]], is subject to punishment under this Code for any of the offences defined in this Chapter.

**140. Wearing garb or carrying token used by soldier, sailor or airman.**—Whoever, not being a soldier, <sup>8</sup>[sailor or airman] in the Military, <sup>9</sup>[Naval or Air] service of the <sup>10</sup>[Government of India], wears any garb or carries any token resembling any garb or token used by such a soldier, <sup>8</sup>[sailor or airman] with the intention that it may be believed that he is such a soldier, <sup>8</sup>[sailor or airman], shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

## CHAPTER VIII

### OF OFFENCES AGAINST THE PUBLIC TRANQUILITY

**141. Unlawful assembly.**—An assembly of five or more persons is designated an “unlawful assembly”, if the common object of the persons composing that assembly is—

*First.*—To overawe by criminal force, or show of criminal force, <sup>11</sup>[the Central or any State Government or Parliament or the Legislature of any State], or any public servant in the exercise of the lawful power of such public servant; or

*Second.*—To resist the execution of any law, or of any legal process; or

*Third.*—To commit any mischief or criminal trespass, or other offence; or

*Fourth.*—By means of criminal force, or show of criminal force, to any person, to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or

*Fifth.*—By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

*Explanation.*—An assembly which was not unlawful when it assembled, may subsequently become an unlawful assembly.

**142. Being member of unlawful assembly.**—Whoever, being aware of facts which render any assembly an unlawful assembly, intentionally joins that assembly, or continues in it, is said to be a member of an unlawful assembly.

**143. Punishment.**—Whoever is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

**144. Joining unlawful assembly armed with deadly weapon.**—Whoever, being armed with any deadly weapon, or with anything which, used as a weapon of offence, is likely to cause death, is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

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1. Subs. by Act 10 of 1927, s. 2 and the First Sch., for “any Articles of War for the Army of Navy of the Queen, or for any part of such Army or Navy”.

2. Subs. by Act 3 of 1951, s. 3 and the Sch., for “the Indian Army Act, 1911”.

3. Ins. by Act 35 of 1934, s. 2 and the Sch.

4. The words “or that Act as modified by” omitted by the A. O. 1950.

5. Now see the Navy Act, 1957 (62 of 1957).

6. Subs. by Act 14 of 1932, s. 130 and Sch., for “or the Air Force Act”.

7. Subs. by Act 3 of 1951, s. 3 and the Sch., for “the Indian Air Force Act, 1932”.

8. Subs. by Act 10 of 1927, s. 2 and the First Sch., for “or sailor”.

9. Subs. by s. 2 and the First Sch., *ibid.*, for “or Naval”.

10. Subs. by the A. O. 1950, for “Queen”.

11. Subs., *ibid.*, for “the Central or any Provincial Government or Legislature”.

**145. Joining or continuing in unlawful assembly, knowing it has been commanded to disperse.**—Whoever joins or continues in an unlawful assembly, knowing that such unlawful assembly has been commanded in the manner prescribed by law to disperse, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**146. Rioting.**—Whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.

**147. Punishment for rioting.**—Whoever is guilty of rioting, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**148. Rioting, armed with deadly weapon.**—Whoever is guilty of rioting, being armed with a deadly weapon or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**149. Every member of unlawful assembly guilty of offence committed in prosecution of common object.**—If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence.

**150. Hiring, or conniving at hiring, of persons to join unlawful assembly.**—Whoever hires or engages, or employs, or promotes, or connives at the hiring, engagement or employment of any person to join or become a member of any unlawful assembly, shall be punishable as a member of such unlawful assembly, and for any offence which may be committed by any such person as a member of such unlawful assembly in pursuance of such hiring, engagement or employment, in the same manner as if he had been a member of such unlawful assembly, or himself had committed such offence.

**151. Knowingly joining or continuing in assembly of five or more persons after it has been commanded to disperse.**—Whoever knowingly joins or continues in any assembly of five or more persons likely to cause a disturbance of the public peace, after such assembly has been lawfully commanded to disperse, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

*Explanation.*—If the assembly is an unlawful assembly within the meaning of section 141, the offender will be punishable under section 145.

**152. Assaulting or obstructing public servant when suppressing riot, etc.**—Whoever assaults or threatens to assault, or obstructs or attempts to obstruct, any public servant in the discharge of his duty as such public servant, in endeavouring to disperse an unlawful assembly, or to suppress a riot or affray, or uses, or threatens, or attempts to use criminal force to such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**153. Wantonly giving provocation with intent to cause riot—if rioting be committed—if not committed.**—Whoever malignantly, or wantonly, by doing anything which is illegal, gives provocation to any person intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed, shall, if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both; and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

<sup>1</sup>[**153A. Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.**—(1) Whoever—

(a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, or

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1. Subs. by Act 35 of 1969, s. 2, for section 153A (w.e.f. 4-9-1969).



(b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquillity, <sup>1</sup>[or]

<sup>1</sup>[(c) organizes any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community,]

shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(2) **Offence committed in place of worship, etc.**—Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.]

<sup>2</sup>[**153AA. Punishment for knowingly carrying arms in any procession or organising, or holding or taking part in any mass drill or mass training with arms.**—Whoever knowingly carries arms in any procession or organizes or holds or takes part in any mass drill or mass training with arms in any public place in contravention of any public notice or order issued or made under section 144A of the Code of Criminal Procedure, 1973 (2 of 1974) shall be punished with imprisonment for a term which may extend to six months and with fine which may extend to two thousand rupees.

*Explanation.*—“Arms” means articles of any description designed or adapted as weapons for offence or defence and includes firearms, sharp edged weapons, lathis, *dandas* and sticks.]

<sup>1</sup>[**153B. Imputations, assertions prejudicial to national integration.**—(1) Whoever, by words either spoken or written or by signs or by visible representations or otherwise,—

(a) makes or publishes any imputation that any class of persons cannot, by reason of their being members of any religious, racial, language or regional group or caste or community, bear true faith and allegiance to the Constitution of India as by law established or uphold the sovereignty and integrity of India, or

(b) asserts, counsels, advises, propagates or publishes that any class of persons shall, by reason of their being members of any religious, racial, language or regional group or caste or community, be denied, or deprived of their rights as citizens of India, or

(c) makes or publishes any assertion, counsel, plea or appeal concerning the obligation of any class of persons, by reason of their being members of any religious, racial, language or regional group or caste or community, and such assertion, counsel, plea or appeal causes or is likely to cause disharmony or feelings of enmity or hatred or ill-will between such members and other persons,

shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(2) Whoever commits an offence specified in sub-section (1), in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.]

**154. Owner or occupier of land on which an unlawful assembly is held.**—Whenever any unlawful assembly or riot takes place, the owner or occupier of the land upon which such unlawful assembly is held, or such riot is committed, and any person having or claiming an interest in such land, shall be punishable with fine not exceeding one thousand rupees, if he or his agent or manager, knowing that such offence is being or has been committed, or having reason to believe it is likely to be committed, do not give the earliest notice thereof in his or their power to the principal officer at the nearest police-station,

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1. Ins. by Act 31 of 1972, s. 2 (w.e.f. 14-6-1972).

2. Ins. by Act 25 of 2005, s. 44 (w.e.f. 23-6-2005).

and do not, in the case of his or their having reason to believe that it was about to be committed, use all lawful means in his or their power to prevent it and, in the event of its taking place, do not use all lawful means in his or their power to disperse or suppress the riot or unlawful assembly.

**155. Liability of person for whose benefit riot is committed.**—Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, such person shall be punishable with fine, if he or his agent or manager, having reason to believe that such riot was likely to be committed or that the unlawful assembly by which such riot was committed was likely to be held, shall not respectively use all lawful means in his or their power to prevent such assembly or riot from taking place, and for suppressing and dispersing the same.

**156. Liability of agent of owner or occupier for whose benefit riot is committed.**—Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom,

the agent or manager of such person shall be punishable with fine, if such agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not use all lawful means in his power to prevent such riot or assembly from taking place and for suppressing and dispersing the same.

**157. Harboursing persons hired for an unlawful assembly.**—Whoever harbours, receives or assembles, in any house or premises in his occupation or charge, or under his control any persons knowing that such persons have been hired, engaged or employed, or are about to be hired, engaged or employed, to join or become members of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

**158. Being hired to take part in an unlawful assembly or riot.**—Whoever is engaged, or hired, or offers or attempts to be hired or engaged, to do or assist in doing any of the acts specified in section 141, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both,

**or to go armed.**—and whoever, being so engaged or hired as aforesaid, goes armed, or engages or offers to go armed, with any deadly weapon or with anything which used as a weapon of offence is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**159. Affray.**—When two or more persons, by fighting in a public place, disturb the public peace, they are said to “commit an affray”.

**160. Punishment for committing affray.**—Whoever commits an affray, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

## STATE AMENDMENT

### Uttar Pradesh

**Abatement of certain trials.**— Notwithstanding anything contained in any other law for the time being in force, —

(1) the trial of an accused for —

(a) an offence punishable under —

“(i) the Motor Vehicles Act, 1988; or ”

(ii) the Public Gambling Act, 1867, not being an offence punishable under section 3 of that Act or an offence in respect of wagering punishable under section 13 of that Act; or

(iii) section 34 of the Police Act, 1861; or

(iv) section 160 of the Indian Penal Code, 1860; or

(b) any other offence punishable with fine only, or

(2) a procedure, under section 107 or section 109 of the Code of Criminal Procedure, 1973, pending before a Magistrate on the date of commencement of this Act from before “December 31, 2015” shall abate.

[Vide the Uttar Pradesh Act 35 of 1979, s. 9, and amended by Uttar Pradesh Act 29 of 2016 and 9 of 2018].

## CHAPTER IX

### OF OFFENCES BY OR RELATING TO PUBLIC SERVANTS

**161.** [Public servant taking gratification other than legal remuneration in respect of an official act.] Rep. by the Prevention of Corruption Act, 1988 (49 of 1988), s. 31.

### STATE AMENDMENT

#### **Kerala.—**

**Amendment of section 161, Central Act 45 of 1860.**—In section 161 of the Indian Penal Code (Central Act 45 of 1860), after the explanation relating to “A motive or reward for doing”, the following explanation shall be inserted, namely:—

“‘Public Servant’.— For purposes of this section and sections 162, 163, 164, 165 and 165A, the words ‘public servant’ shall denote, besides those who are public servants under section 21 or who are deemed to be ‘public servants’ within the meaning of that section under any law for the time being in force, persons falling under any of the descriptions hereinafter following, namely:—

(i) Every officer in the service or pay of the Travancore Devaswom Board or the Cochin Devaswom Board or the Cochin Devaswom Board;

(ii) Every officer in the service or pay and every member of the Wakfs Board constituted under the Wakfs Act, 1954 (Central Act 29 of 1954);

(iii) The President and every member of a Village Court or Village Panchayat Court;

(iv) Every member of the Board of Directors or of the executive or managing committee and every officer or servant of a co-operative society registered or deemed to be registered under the law relating to co-operative societies for the time being in force.

(v) Every member of the governing body and every officer or servant in the service or pay of a society registered under the Travancore-Cochin Literary, Scientific and Charitable Societies Registration Act, 1955 or the Societies Registration Act, 1860, and receiving aid or grant from the Government;

(vi) Every teacher or other officer or servant of the University of Kerala;

(vii) Every examiner of a University Examination or a Government Examination;

(viii) Every Manager, or teacher or servant of an educational institution which receives or has received aid or grant from the Government or the University of Kerala.”.

[Vide Kerala Act 27 of 1962, sec. 2].

**162.** [Taking gratification, in order, by corrupt or illegal means, to influence public servant.] Rep. by the Prevention of Corruption Act, 1988 (49 of 1988), s. 31.

**163.** [Taking gratification, for the exercise personal influence with public servant.] Rep. by s. 31, *ibid.*

**164.** [Punishment for abetment by public servant of offences defined in sections 162 or 163.] Rep. by s. 31, *ibid.*

**165.** [Public servant obtaining valuable thing, without consideration, from person concerned in proceeding or business transacted by such public servant.] Rep. by s. 31, *ibid.*

**165A.** [Punishment for abetment of offences defined in section 161 or section 165.] Rep. by s. 31, *ibid.*

**166. Public servant disobeying law, with intent to cause injury to any person.**—Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

#### *Illustration*

A, being an officer directed by law to take property in execution, in order to satisfy a decree pronounced in Z's favour by a Court of Justice, knowingly disobeys that direction of law, with the knowledge that he is likely thereby to cause injury to Z. A has committed the offence defined in this section.

<sup>1</sup>**[166A. Public servant disobeying direction under law.**—Whoever, being a public servant,—

(a) knowingly disobeys any direction of the law which prohibits him from requiring the attendance at any place of any person for the purpose of investigation into an offence or any other matter, or

(b) knowingly disobeys, to the prejudice of any person, any other direction of the law regulating the manner in which he shall conduct such investigation, or

(c) fails to record any information given to him under sub-section (1) of section 154 of the Code of Criminal Procedure, 1973 (2 of 1974), in relation to cognizable offence punishable under section 326A, section 326B, section 354, section 354B, section 370, section 370A, section 376, section 376A, section 376B, section 376C, section 376D, section 376DA, section 376DB, section 376E or section 509,

shall be punished with rigorous imprisonment for a term which shall not be less than six months but which may extend to two years, and shall also be liable to fine.

#### **STATE AMENDMENT**

##### **Arunachal Pradesh**

**Amendment of section 166A.**—In section 166A of the principal Act, in clause (c), for the words, figures and letters “section 326A, section 326B, section 354, section 354A, section 370, section 370A, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509” the words, figures and letters “section 326A, section 326B, section 354, sub-sections (2) and (3) of section 354A, section 354B, section 354C, sub-sections (2) of section 354D, section 370, section 370A, section 376, section 376A, section 376AA, section 376B, section 376C, section 376D, section 376DA, section 376E or section 509” shall be substituted.

[Vide Arunachal Pradesh Act 3 of 2019, s. 3]

**166B. Punishment for non-treatment of victim.**—Whoever, being in charge of a hospital, public or private, whether run by the Central Government, the State Government, local bodies or any other person, contravenes the provisions of section 357C of the Code of Criminal Procedure, 1973 (2 of 1974), shall be punished with imprisonment for a term which may extend to one year or with fine or with both.]

**167. Public servant framing an incorrect document with intent to cause injury.**—Whoever, being a public servant, and being, as <sup>3</sup>[such public servant, charged with the preparation or translation of any document or electronic record, frames, prepares or translates that document or electronic record] in a manner which he knows or believes to be incorrect, intending thereby to cause or knowing it to be likely

1. Ins. by Act 13 of 2013, s. 3 (w.e.f. 03-02-2013).

2. Subs. by Act 22 of 2018, s. 2, for “section 376B, section 376C, section 376D” (w.e.f. 21-4-2018).

3. Subs. by Act 21 of 2000, s. 91 and the First Sch., for certain words (w.e.f. 17-10-2000).

that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**168. Public servant unlawfully engaging in trade.**—Whoever, being a public servant, and being legally bound as such public servant not to engage in trade, engages in trade, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

**169. Public servant unlawfully buying or bidding for property.**—Whoever, being a public servant, and being legally bound as such public servant, not to purchase or bid for certain property, purchases or bids for that property, either in his own name or in the name of another, or jointly, or in shares with others, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both; and the property, if purchased, shall be confiscated.

**170. Personating a public servant.**—Whoever pretends to hold any particular office as a public servant, knowing that he does not hold such office or falsely personates any other person holding such office, and in such assumed character does or attempts to do any act under colour of such office, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**171. Wearing garb or carrying token used by public servant with fraudulent intent.**—Whoever, not belonging to a certain class of public servants, wears any garb or carries any token resembling any garb or token used by that class of public servants, with the intention that it may be believed, or with the knowledge that it is likely to be believed, that he belongs to that class of public servants, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

#### <sup>1</sup>[CHAPTER IXA

#### OF OFFENCES RELATING TO ELECTIONS

**171A. “Candidate”, “Electoral right” defined.**—For the purposes of this Chapter—

<sup>2</sup>[(a) “candidate” means a person who has been nominated as a candidate at any election;]

(b) “electoral right” means the right of a person to stand, or not to stand as, or to withdraw from being, a candidate or to vote or refrain from voting at an election.

**171B. Bribery.**—(1) Whoever—

(i) gives a gratification to any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right; or

(ii) accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right,

commits the offence of bribery:

Provided that a declaration of public policy or a promise of public action shall not be an offence under this section.

(2) A person who offers, or agrees to give, or offers or attempts to procure, a gratification shall be deemed to give a gratification.

(3) A person who obtains or agrees to accept or attempts to obtain a gratification shall be deemed to accept a gratification, and a person who accepts a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, shall be deemed to have accepted the gratification as a reward.

**171C. Undue influence at elections.**—(1) Whoever voluntarily interferes or attempts to interfere with the free exercise of any electoral right commits the offence of undue influence at an election.

(2) Without prejudice to the generality of the provisions of sub-section (1), whoever—

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1. Ins. by Act 39 of 1920, s. 2 (w.e.f. 14-9-1920).

2. Subs. by Act 40 of 1975, s. 9, for cl. (a) (w.e.f. 6-8-1975).

(a) threatens any candidate or voter, or any person in whom a candidate or voter is interested, with injury of any kind, or

(b) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of Divine displeasure or of spiritual censure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter, within the meaning of sub-section (1).

(3) A declaration of public policy or a promise of public action, or the mere exercise or a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this section.

**171D. Personation at elections.**—Whoever at an election applies for a voting paper on votes in the name of any other person, whether living or dead, or in a fictitious name, or who having voted once at such election applies at the same election for a voting paper in his own name, and whoever abets, procures or attempts to procure the voting by any person in any such way, commits the offence of personation at an election:

<sup>1</sup>[Provided that nothing in this section shall apply to a person who has been authorised to vote as proxy for an elector under any law for the time being in force in so far as he votes as a proxy for such elector.]

**171E. Punishment for bribery.**—Whoever commits the offence of bribery shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both:

Provided that bribery by treating shall be punished with fine only.

*Explanation.*—“Treating” means that form of bribery where the gratification consists in food, drink, entertainment, or provision.

**171F. Punishment for undue influence or personation at an election.**—Whoever commits the offence of undue influence or personation at an election shall be punished with imprisonment of either description for a term which may extend to one year or with fine, or with both.

**171G. False statement in connection with an election.**—Whoever with intent to affect the result of an election makes or publishes any statement purporting to be a statement of fact which is false and which he either knows or believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate shall be punished with fine.

**171H. Illegal payments in connection with an election.**—Whoever without the general or special authority in writing of a candidate incurs or authorises expenses on account of the holding of any public meeting, or upon any advertisement, circular or publication, or in any other way whatsoever for the purpose of promoting or procuring the election of such candidate, shall be punished with fine which may extend to five hundred rupees:

Provided that if any person having incurred any such expenses not exceeding the amount of ten rupees without authority obtains within ten days from the date on which such expenses were incurred the approval in writing of the candidate, he shall be deemed to have incurred such expenses with the authority of the candidate.

**171-I. Failure to keep election accounts.**—Whoever being required by any law for the time being in force or any rule having the force of law to keep accounts of expenses incurred at or in connection with an election fails to keep such accounts shall be punished with fine which may extend to five hundred rupees.]

## CHAPTER X

### OF CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS

**172. Absconding to avoid service of summons or other proceeding.**—Whoever absconds in order to avoid being served with a summons, notice or order proceeding from any public servant legally competent, as such public servant, to issue such summons, notice or order, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both;

or, if the summons or notice or order is to attend in person or by agent, or to <sup>2</sup>[produce a document or an electronic record in a Court of Justice], with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

1. The proviso ins. by Act 24 of 2003, s. 5 (w.e.f. 22-9-2003).

2. Subs. by Act 21 of 2000, s. 91 and the First Sch., for “produce a document in a Court of Justice” (w.e.f. 17-10-2000).

**173. Preventing service of summons or other proceeding, or preventing publication thereof.—**Whoever in any manner intentionally prevents the serving on himself, or on any other person, of any summons, notice or order proceeding from any public servant legally competent, as such public servant, to issue such summons, notice or order,

or intentionally prevents the lawful affixing to any place of any such summons, notice or order,

or intentionally removes any such summons, notice or order from any place to which it is lawfully affixed,

or intentionally prevents the lawful making of any proclamation, under the authority of any public servant legally competent, as such public servant, to direct such proclamation to be made,

shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both;

or, if the summons, notice, order or proclamation is to attend in person or by agent, or <sup>1</sup>[to produce a document or electronic record in a Court of Justice] with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**174. Non-attendance in obedience to an order from public servant.—**Whoever, being legally bound to attend in person or by an agent at a certain place and time in obedience to a summons, notice, order or proclamation proceeding from any public servant legally competent, as such public servant, to issue the same,

intentionally omits to attend at that place or time, or departs from the place where he is bound to attend before the time at which it is lawful for him to depart,

shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both;

or, if the summons, notice, order or proclamation is to attend in person or by agent in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

#### *Illustrations*

(a) A, being legally bound to appear before the <sup>2</sup>[High Court] at Calcutta, in obedience to a subpoena issuing from that Court, intentionally omits to appear. A has committed the offence defined in this section.

(b) A, being legally bound to appear before a <sup>3</sup>[District Judge], as a witness, in obedience to a summons issued by that <sup>3</sup>[District Judge] intentionally omits to appear. A has committed the offence defined in this section.

**<sup>4</sup>[174A. Non-appearance in response to a proclamation under section 82 of Act 2 of 1974.—**Whoever fails to appear at the specified place and the specified time as required by a proclamation published under sub-section (1) of section 82 of the Code of Criminal Procedure, 1973 shall be punished with imprisonment for a term which may extend to three years or with fine or with both, and where a declaration has been made under sub-section (4) of that section pronouncing him as a proclaimed offender, he shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.]

**175. Omission to produce document to public servant by person legally bound to produce it.—**Whoever, being legally bound to produce or deliver up any <sup>5</sup>[document or electronic record] to any public servant, as such, intentionally omits so to produce or deliver up the same, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both;

or, if the <sup>5</sup>[document or electronic record] is to be produced or delivered up to a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

#### *Illustration*

A, being legally bound to produce a document before a <sup>6</sup>[District Court], intentionally omits to produce the same. A has committed the offence defined in this section.

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1. Subs. by Act 21 of 2000, s. 91 and the First Sch., for “to produce a document in a Court of Justice” (w.e.f. 17-10-2000).

2. Subs. by the A. O. 1950, for “Supreme Court”.

3. Subs. *ibid.*, for “Zila Judge”.

4. Ins. by Act 25 of 2005, s. 44 (w.e.f. 23-6-2006).

5. Subs. by Act 21 of 2000, s. 91 and the First Sch., for “document” (w.e.f. 17-10-2000).

6. Subs. by the A.O. 1950, for “Zila Court”.

**176. Omission to give notice or information to public servant by person legally bound to give it.**—Whoever, being legally bound to give any notice or to furnish information on any subject to any public servant, as such, intentionally omits to give such notice or to furnish such information in the manner and at the time required by law, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both;

or, if the notice or information required to be given respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both;

<sup>1</sup>[or, if the notice or information required to be given is required by an order passed under sub-section (1) of section 565 of the Code of Criminal Procedure, 1898 (5 of 1898), with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.]

**177. Furnishing false information.**—Whoever, being legally bound to furnish information on any subject to any public servant, as such, furnishes, as true, information on the subject which he knows or has reason to believe to be false shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both;

or, if the information which he is legally bound to give respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

#### *Illustrations*

(a) A, a landholder, knowing of the commission of a murder within the limits of his estate, wilfully misinforms the Magistrate of the district that the death has occurred by accident in consequence of the bite of a snake. A is guilty of the offence defined in this section.

(b) A, a village watchman, knowing that a considerable body of strangers has passed through his village in order to commit a dacoity in the house of Z, a wealthy merchant residing in a neighbouring place, and being bound under clause 5, section VII, Regulation III, 1821, of the Bengal Code, to give early and punctual information of the above fact to the officer of the nearest police-station, wilfully misinforms the police officer that a body of suspicious characters passed through the village with a view to commit dacoity in a certain distant place in a different direction. Here A is guilty of the offence defined in the latter part of this section.

<sup>3</sup>[*Explanation.*—In section 176 and in this section the word “offence” includes any act committed at any place out of <sup>4</sup>[India], which, if committed in <sup>4</sup>[India], would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460; and the word “offender” includes any person who is alleged to have been guilty of any such act.]

**178. Refusing oath or affirmation when duly required by public servant to make it.**—Whoever refuses to bind himself by an oath <sup>5</sup>[or affirmation] to state the truth, when required so to bind himself by a public servant legally competent to require that he shall so bind himself, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**179. Refusing to answer public servant authorised to question.**—Whoever, being legally bound to state the truth on any subject to any public servant, refuses to answer any question demanded of him touching that subject by such public servant in the exercise of the legal powers of such public servant,

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1. Added by Act 22 of 1939, s. 2.

2. Rep. by Act 17 of 1862, s. VII and Sch.

3. Added by Act 3 of 1894, s. 5.

4. The words “British India” have successively been subs. by the A. O. 1948, the A. O. 1950 and Act 3 of 1951, s. 3 and the Sch., to read as above.

5. Ins. by Act 10 of 1873, s. 15.



shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**180. Refusing to sign statement.**—Whoever refuses to sign any statement made by him, when required to sign that statement by a public servant legally competent to require that he shall sign that statement, shall be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

**181. False statement on oath or affirmation to public servant or person authorised to administer an oath or affirmation.**—Whoever, being legally bound by an oath <sup>1</sup>[or affirmation] to state the truth on any subject to any public servant or other person authorized by law to administer such oath <sup>1</sup>[or affirmation], makes, to such public servant or other person as aforesaid, touching that subject, any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

<sup>2</sup>[**182. False information, with intent to cause public servant to use his lawful power to the injury of another person.**—Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant—

(a) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or

(b) to use the lawful power of such public servant to the injury or annoyance of any person,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

#### *Illustrations*

(a) A informs a Magistrate that Z, a police-officer, subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that the information will cause the Magistrate to dismiss Z. A has committed the offence defined in this section.

(b) A falsely informs a public servant that Z has contraband salt in a secret place, knowing such information to be false, and knowing that it is likely that the consequence of the information will be a search of Z's premises, attended with annoyance to Z. A has committed the offence defined in this section.

(c) A falsely informs a policeman that he has been assaulted and robbed in the neighbourhood of a particular village. He does not mention the name of any person as one of his assailants, but knows it to be likely that in consequence of this information the police will make enquiries and institute searches in the village to the annoyance of the villages or some of them. A has committed an offence under this section.]

**183. Resistance to the taking of property by the lawful authority of a public servant.**—Whoever offers any resistance to the taking of any property by the lawful authority of any public servant, knowing or having reason to believe that he is such public servant, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**184. Obstructing sale of property offered for sale by authority of public servant.**—Whoever intentionally obstructs any sale of property offered for sale by the lawful authority of any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

**185. Illegal purchase or bid for property offered for sale by authority of public servant.**—Whoever, at any sale of property held by the lawful authority of a public servant, as such, purchases or bids for any property on account of any person, whether himself or any other, whom he knows to be under a legal incapacity to purchase that property at that sale, or bids for such property not intending to perform the obligations under which he lays himself by such bidding, shall be punished with

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1. Ins. by Act 10 of 1873, s. 15.

2. Subs. by Act 3 of 1895, s. 1, for section 182.

imprisonment of either description for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

**186. Obstructing public servant in discharge of public functions.**—Whoever voluntarily obstructs any public servant in the discharge of his public functions, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

**187. Omission to assist public servant when bound by law to give assistance.**—Whoever, being bound by law to render or furnish assistance to any public servant in the execution of his public duty, intentionally omits to give such assistance, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both;

and if such assistance be demanded of him by a public servant legally competent to make such demand for the purposes of executing any process lawfully issued by a Court of Justice, or of preventing the commission of an offence, or suppressing a riot, or affray, or of apprehending a person charged with or guilty of an offence, or of having escaped from lawful custody, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

**188. Disobedience to order duly promulgated by public servant.**—Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction,

shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both;

and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

*Explanation.*—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.

#### *Illustration*

An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this section.

**189. Threat of injury to public servant.**—Whoever holds out any threat of injury to any public servant, or to any person in whom he believes that public servant to be interested, for the purpose of inducing that public servant to do any act, or to forbear or delay to do any act, connected with the exercise of the public functions of such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**190. Threat of injury to induce person to refrain from applying for protection to public servant.**—Whoever holds out any threat of injury to any person for the purpose of inducing that person to refrain or desist from making a legal application for protection against any injury to any public servant legally empowered as such to give such protection, or to cause such protection to be given, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

## CHAPTER XI

### OF FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE

**191. Giving false evidence.**—Whoever, being legally bound by an oath or by an express provision of law to state the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, is said to give false evidence.

*Explanation 1.*—A statement is within the meaning of this section, whether it is made verbally or otherwise.

*Explanation 2.*—A false statement as to the belief of the person attesting is within the meaning of this section, and a person may be guilty of giving false evidence by stating that he believes a thing which he does not believe, as well as by stating that he knows a thing which he does not know.

#### *Illustrations*

(a) A, in support of a just claim which B has against Z for one thousand rupees, falsely swears on a trial that he heard Z admit the justice of B's claim. A has given false evidence.

(b) A, being bound by an oath to state the truth, states that he believes a certain signature to be the handwriting of Z, when he does not believe it to be the handwriting of Z. Here A states that which he knows to be false, and therefore gives false evidence.

(c) A, knowing the general character of Z's handwriting, states that he believes a certain signature to be the handwriting of Z; A in good faith believing it to be so. Here A's statement is merely as to his belief, and is true as to his belief, and therefore, although the signature may not be the handwriting of Z, A has not given false evidence.

(d) A, being bound by an oath to state the truth, states that he knows that Z was at a particular place on a particular day, not knowing anything upon the subject. A gives false evidence whether Z was at that place on the day named or not.

(e) A, an interpreter or translator, gives or certifies as a true interpretation or translation of a statement or document which he is bound by oath to interpret or translate truly, that which is not and which he does not believe to be a true interpretation or translation. A has given false evidence.

**192. Fabricating false evidence.**—Whoever causes any circumstance to exist or <sup>1</sup>[makes any false entry in any book or record, or electronic record or makes any document or electronic record containing a false statement,] intending that such circumstance, false entry or false statement may appear in evidence in a judicial proceeding, or in a proceeding taken by law before a public servant as such, or before an arbitrator, and that such circumstance, false entry or false statement, so appearing in evidence, may cause any person who in such proceeding is to form an opinion upon the evidence, to entertain an erroneous opinion touching any point material to the result of such proceeding is said “to fabricate false evidence”.

#### *Illustrations*

(a) A puts jewels into a box belonging to Z, with the intention that they may be found in that box, and that this circumstance may cause Z to be convicted of theft. A has fabricated false evidence.

(b) A makes a false entry in his shop-book for the purpose of using it as corroborative evidence in a Court of Justice. A has fabricated false evidence.

(c) A, with the intention of causing Z to be convicted of a criminal conspiracy, writes a letter in imitation of Z's handwriting, purporting to be addressed to an accomplice in such criminal conspiracy, and puts the letter in a place which he knows that the officers of the police are likely to search. A has fabricated false evidence.

**193. Punishment for false evidence.**—Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine,

and whoever intentionally gives or fabricates false evidence in any other case, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

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1. Subs. by Act 21 of 2000, s. 91 and the First Sch., for certain words (w.e.f. 17-10-2000).

*Explanation 1.*—A trial before a Court-martial <sup>1\*\*\*</sup>is a judicial proceeding.

*Explanation 2.*—An investigation directed by law preliminary to a proceeding before a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

*Illustration*

A, in an enquiry before a Magistrate for the purpose of ascertaining whether Z ought to be committed for trial, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.

*Explanation 3.*—An investigation directed by a Court of Justice according to law, and conducted under the authority of a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

*Illustration*

A, in an enquiry before an officer deputed by a Court of Justice to ascertain on the spot the boundaries of land, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.

**194. Giving or fabricating false evidence with intent to procure conviction of capital offence.**—Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which is capital <sup>2</sup>[by the law for the time being in force in <sup>3</sup>[India]] shall be punished with <sup>4</sup>[imprisonment for life], or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine;

**if innocent person be thereby convicted and executed.**—and if an innocent person be convicted and executed in consequence of such false evidence, the person who gives such false evidence shall be punished either with death or the punishment hereinbefore described.

**195. Giving or fabricating false evidence with intent to procure conviction of offence punishable with imprisonment for life or imprisonment.**—Whoever gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which <sup>2</sup>[by the law for the time being in force in <sup>3</sup>[India]] is not capital, but punishable with <sup>4</sup>[imprisonment for life], or imprisonment for a term of seven years or upwards, shall be punished as a person convicted of that offence would be liable to be punished.

*Illustration*

A gives false evidence before a Court of Justice, intending thereby to cause Z to be convicted of a dacoity. The punishment of dacoity is <sup>4</sup>[imprisonment for life], or rigorous imprisonment for a term which may extend to ten years, with or without fine. A, therefore, is liable to <sup>5</sup>[imprisonment for life] or imprisonment, with or without fine.

<sup>6</sup>[**195A. Threatening any person to give false evidence.**—Whoever threatens another with any injury to his person, reputation or property or to the person or reputation of any one in whom that person is interested, with intent to cause that person to give false evidence shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both;

and if innocent person is convicted and sentenced in consequence of such false evidence, with death or imprisonment for more than seven years, the person who threatens shall be punished with the same punishment and sentence in the same manner and to the same extent such innocent person is punished and sentenced.]

**196. Using evidence known to be false.**—Whoever corruptly uses or attempts to use as true or genuine evidence any evidence which he knows to be false or fabricated, shall be punished in the same manner as if he gave or fabricated false evidence.

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1. The words “or before a Military Court of Request” omitted by Act 13 of 1889, s. 2 and Sch.

2. Subs. by the A.O. 1948, for “by the law of British India or England”.

3. Subs. by Act 3 of 1951, s. 3 and the Sch., for “the States”.

4. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

5. Subs. by s. 117 and the Schedule, *ibid.*, for “such transportation” (w.e.f. 1-1-1956).

6. Ins. by Act 2 of 2006, s. 2 (w.e.f. 16-4-2006).

**197. Issuing or signing false certificate.**—Whoever issues or signs any certificate required by law to be given or signed, or relating to any fact of which such certificate is by law admissible in evidence, knowing or believing that such certificate is false in any material point, shall be punished in the same manner as if he gave false evidence.

**198. Using as true a certificate known to be false.**—Whoever corruptly uses or attempts to use any such certificate as a true certificate, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

**199. False statement made in declaration which is by law receivable as evidence.**—Whoever, in any declaration made or subscribed by him, which declaration any Court of Justice, or any public servant or other person, is bound or authorised by law to receive as evidence of any fact, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, touching any point material to the object for which the declaration is made or used, shall be punished in the same manner as if he gave false evidence.

**200. Using as true such declaration knowing it to be false.**—Whoever corruptly uses or attempts to use as true any such declaration, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

*Explanation.*—A declaration which is inadmissible merely upon the ground of some informality, is a declaration within the meaning of sections 199 and 200.

**201. Causing disappearance of evidence of offence, or giving false information to screen offender.**—Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false,

**if a capital offence.**—shall, if the offence which he knows or believes to have been committed is punishable with death be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

**if punishable with imprisonment for life.**—and if the offence is punishable with <sup>1</sup>[imprisonment for life], or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

**if punishable with less than ten years' imprisonment.**—and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both.

#### *Illustration*

A, knowing that B has murdered Z, assists B to hide the body with the intention of screening B from punishment. A is liable to imprisonment of either description for seven years, and also to fine.

**202. Intentional omission to give information of offence by person bound to inform.**—Whoever, knowing or having reason to believe that an offence has been committed, intentionally omits to give any information respecting that offence which he is legally bound to give, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

**203. Giving false information respecting an offence committed.**—Whoever, knowing or having reason to believe that an offence has been committed, gives any information respecting that offence which he knows or believes to be false, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

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1. Subs. by Act 26 of 1955, s. 117 and Schedule, for “transportation for life” (w.e.f. 1-1-1956).

<sup>1</sup>[*Explanation.*—In sections 201 and 202 and in this section the word “offence” includes any act committed at any place out of <sup>2</sup>[India], which, if committed in <sup>2</sup>[India], would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460.]

**204. Destruction of document to prevent its production as evidence.**—Whoever secretes or destroys any <sup>3</sup>[document or electronic record] which he may be lawfully compelled to produce as evidence in a Court of Justice, or in any proceeding lawfully held before a public servant, as such, or obliterates or renders illegible the whole or any part of such <sup>3</sup>[document or electronic record] with the intention of preventing the same from being produced or used as evidence before such Court or public servant as aforesaid, or after he shall have been lawfully summoned or required to produce the same for that purpose, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**205. False personation for purpose of act or proceeding in suit or prosecution.**—Whoever falsely personates another, and in such assumed character makes any admission or statement, or confesses judgment, or causes any process to be issued or becomes bail or security, or does any other act in any suit or criminal prosecution, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**206. Fraudulent removal or concealment of property to prevent its seizure as forfeited or in execution.**—Whoever fraudulently removes, conceals, transfers or delivers to any person any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced, by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely to be made by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years or with fine, or with both.

**207. Fraudulent claim to property to prevent its seizure as forfeited or in execution.**—Whoever fraudulently accepts, receives or claims any property or any interest therein, knowing that he has no right or rightful claim to such property or interest, or practices any deception touching any right to any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely to be made by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**208. Fraudulently suffering decree for sum not due.**—Whoever fraudulently causes or suffers a decree or order to be passed against him at the suit of any person for a sum not due or for a larger sum than is due to such person or for any property or interest in property to which such person is not entitled, or fraudulently causes or suffers a decree or order to be executed against him after it has been satisfied, or for anything in respect of which it has been satisfied, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

*Illustration*

A institutes a suit against Z. Z knowing that A is likely to obtain a decree against him, fraudulently suffers a judgment to pass against him for a larger amount at the suit of B, who has no just claim against him, in order that B, either on his own account or for the benefit of Z, may share in the proceeds of any sale of Z's property which may be made under A's decree. Z has committed an offence under this section.

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1. Added by Act 3 of 1894, s. 6.

2. The words “British India” have successively been subs. by the A. O. 1948, the A. O. 1950 and Act 3 of 1951, s. 3 and the Sch., to read as above.

3. Subs. by Act 21 of 2000, s. 91 and the First Sch., for “document” (w.e.f. 17-10-2000).

**209. Dishonesty making false claim in Court.**—Whoever fraudulently or dishonestly, or with intent to injure or annoy any person, makes in a Court of Justice any claim which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

**210. Fraudulently obtaining decree for sum not due.**—Whoever fraudulently obtains a decree or order against any person for a sum not due, or for a larger sum than is due, or for any property or interest in property to which he is not entitled, or fraudulently causes a decree or order to be executed against any person after it has been satisfied or for anything in respect of which it has been satisfied, or fraudulently suffers or permits any such act to be done in his name, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**211. False charge of offence made with intent to injure.**—Whoever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

and if such criminal proceeding be instituted on a false charge of an offence punishable with death,<sup>1</sup>[imprisonment for life], or imprisonment for seven years or upwards, shall be punishable with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

#### STATE AMENDMENTS

**Chhattisgarh.**—

**In Section 211 of the Indian Penal Code, 1860 (here-in-after referred to as the Penal Code), the following proviso shall be inserted, namely: —**

Provided that, if such criminal proceeding be instituted on a false charge, of an offence punishable under section 354, section 354A, section 354B, section 354C, section 354D, section 354E, section 376B, section 376C, section 376F, section 509, section 509A or section 509B shall be punishable with imprisonment of either description which shall not be less than three years but which may extend to five years and shall also be liable to fine.

[Vide Chhattisgarh Act 25 of 2015, sec. 2].

**212. Harboursing offender.**—Whenever an offence has been committed, whoever harbours or conceals a person whom he knows or has reason to believe to be the offender, with the intention of screening him from legal punishment,

**if a capital offence.**—shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine;

**if punishable with imprisonment for life, or with imprisonment.**—and if the offence is punishable with <sup>1</sup>[imprisonment for life], or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

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1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

and if the offence is punishable with imprisonment which may extend to one year, and not to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

<sup>1</sup>["Offence" in this section includes any act committed at any place out of <sup>2</sup>[India], which, if committed in <sup>2</sup>[India], would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460; and every such act shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in <sup>2</sup>[India].]

*Exception.*—This provision shall not extend to any case in which the harbour or concealment is by the husband or wife of the offender.

#### *Illustration*

A, knowing that B has committed dacoity, knowingly conceals B in order to screen him from legal punishment. Here, as B is liable to <sup>3</sup>[imprisonment for life], A is liable to imprisonment of either description for a term not exceeding three years, and is also liable to fine.

**213. Taking gift, etc., to screen an offender from punishment.**—Whoever accepts or attempts to obtain, or agrees to accept, any gratification for himself or any other person, or any restitution of property to himself or any other person, in consideration of his concealing an offence or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment,

**if a capital offence.**—shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

**if punishable with imprisonment for life, or with imprisonment.**—and if the offence is punishable with <sup>3</sup>[imprisonment for life], or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

**214. Offering gift or restoration of property in consideration of screening offender.**—Whoever gives or causes, or offers or agrees to give or cause, any gratification to any person, or <sup>4</sup>[restores or causes the restoration of] any property to any person, in consideration of that person's concealing an offence, or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment,

**if a capital offence.**—shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

**if punishable with imprisonment for life, or with imprisonment.**—and if the offence is punishable with <sup>3</sup>[imprisonment for life] or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

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1. Ins. by Act 3 of 1894, s. 7.

2. The words "British India" have successively been subs. by the A. O. 1948, the A. O. 1950 and Act 3 of 1951 s. 3 and the Sch., to read as above.

3. Subs. by Act 26 of 1955, s. 117 and the Sch., for "transportation for life" (w.e.f. 1-1-1956).

4. Subs. by Act 42 of 1953, s. 4 and the Third Sch., for "to restore or cause the restoration of".



<sup>1</sup>[*Exception.*—The provisions of sections 213 and 214 do not extend to any case in which the offence may lawfully be compounded.]

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**215. Taking gift to help to recover stolen property, etc.**—Whoever takes or agrees or consents to take any gratification under pretence or on account of helping any person to recover any movable property of which he shall have been deprived by any offence punishable under this Code, shall, unless he uses all means in his power to cause the offender to be apprehended and convicted of the offence, be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**216. Harboursing offender who has escaped from custody or whose apprehension has been ordered.**—Whenever any person convicted of a charged with an offence, being in lawful custody for that offence, escapes from such custody,

or whenever a public servant, in the exercise of the lawful powers of such public servant, orders a certain person to be apprehended for an offence, whoever, knowing of such escape or order for apprehension, harbours or conceals that person with the intention of preventing him from being apprehended, shall be punished in the manner following, that is to say,

**if a capital offence.**—if the offence for which the person was in custody or is ordered to be apprehended is punishable with death, he shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

**if punishable with imprisonment for life, or with imprisonment.**—if the offence is punishable with <sup>3</sup>[imprisonment for life] or imprisonment for ten years, he shall be punished with imprisonment of either description for a term which may extend to three years, with or without fine;

and if the offence is punishable with imprisonment which may extend to one year and not to ten years, he shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of the imprisonment provided for such offence, or with fine, or with both.

<sup>4</sup>["Offence" in this section includes also any act or omission of which a person is alleged to have been guilty out of <sup>5</sup>[India], which, if he had been guilty of it in <sup>5</sup>[India], would have been punishable as an offence, and for which he is, under any law relating to extradition, <sup>6</sup>\*\*\* or otherwise, liable to be apprehended or detained in custody in <sup>5</sup>[India], and every such act or omission shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in <sup>5</sup>[India].]

*Exception.*—The provision does not extend to the case in which the harbour or concealment is by the husband or wife of the person to be apprehended.

<sup>7</sup>[**216A. Penalty for harbouring robbers or dacoits.**—Whoever, knowing or having reason to believe that any persons are about to commit or have recently committed robbery or dacoity, harbours them or any of them, with the intention of facilitating the commission of such robbery or dacoity, or of screening them or any of them from punishment, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

*Explanation.*—For the purposes of this section it is immaterial whether the robbery or dacoity is intended to be committed, or has been committed, within or without <sup>5</sup>[India].

*Exception.*—This provision does not extend to the case in which the harbour is by the husband or wife of the offender.]

<sup>7</sup>[**216B. Definition of "harbour" in sections 212, 216 and 216A.] Rep. by the Indian Penal Code (Amendment) Act, 1942 (8 of 1942), s. 3.**

1. Subs. by Act 8 of 1882, s. 6, for the original *Exception*.

2. *Illustrations* rep. by Act 10 of 1882, s. 2 and the First Sch.

3. Subs. by Act 26 of 1955, s. 117 and the Sch., for "transportation for life" (w.e.f. 1-1-1956).

4. Ins. by Act 10 of 1886, s. 23.

5. The words "British India" have successively been subs. by the A. O. 1948, the A. O. 1950 and Act 3 of 1951, s. 3 and the Sch., to read as above.

6. The words "or under the Fugitive Offenders Act, 1881," omitted by Act 3 of 1951, s. 3 and the Sch.

7. Ins. by Act 3 of 1894, s. 8.

**217. Public servant disobeying direction of law with intent to save person from punishment or property from forfeiture.**—Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or subject him to a less punishment than that to which he is liable, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or any charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**218. Public servant framing incorrect record or writing with intent to save person from punishment or property from forfeiture.**—Whoever, being a public servant, and being as such public servant, charged with the preparation of any record or other writing, frames that record or writing in a manner which he knows to be incorrect, with intent to cause, or knowing it to be likely that he will thereby cause, loss or injury to the public or to any person, or with intent thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or other charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**219. Public servant in judicial proceeding corruptly making report, etc., contrary to law.**—Whoever, being a public servant, corruptly or maliciously makes or pronounces in any stage of a judicial proceeding, any report, order, verdict, or decision which he knows to be contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

**220. Commitment for trial or confinement by person having authority who knows that he is acting contrary to law.**—Whoever, being in any office which gives him legal authority to commit persons for trial or to confinement, or to keep persons in confinement, corruptly or maliciously commits any person for trial or to confinement, or keeps any person in confinement, in the exercise of that authority knowing that in so doing he is acting contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

**221. Intentional omission to apprehend on the part of public servant bound to apprehend.**—Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person charged with or liable to be apprehended for an offence, intentionally omits to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say:—

with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with death; or

with imprisonment of either description for a term which may extend to three years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with <sup>1</sup>[imprisonment for life] or imprisonment for a term which may extend to ten years; or

with imprisonment of either description for a term which may extend to two years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with imprisonment for a term less than ten years.

**222. Intentional omission to apprehend on the part of public servant bound to apprehend person under sentence or lawfully committed.**—Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person under sentence of a Court of Justice for any offence <sup>2</sup>[or lawfully committed to custody], intentionally omits to apprehend such person, or intentionally suffers such person to escape or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say:—

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1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

2. Ins. by Act 27 of 1870, s. 8.

with <sup>1</sup>[imprisonment for life] or with imprisonment of either description for a term which may extend to fourteen years, with or without fine, if the person in confinement, or who ought to have been apprehended, is under sentence of death; or

with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have been apprehended, is subject, by a sentence of a Court of Justice, or by virtue of a commutation of such sentence, to <sup>1</sup>[imprisonment for life] <sup>2\*\*\*</sup> <sup>3\*\*\*</sup> <sup>4\*\*\*</sup> <sup>5\*\*\*</sup> or imprisonment for a term of ten years or upwards; or

with imprisonment of either description for a term which may extend to three years, or with fine, or with both, if the person in confinement, or who ought to have been apprehended is subject, by a sentence of a Court of Justice, to imprisonment for a term not extending to ten years <sup>6</sup>[or if the person was lawfully committed to custody].

**223. Escape from confinement or custody negligently suffered by public servant.**—Whoever, being a public servant legally bound as such public servant to keep in confinement any person charged with or convicted of any offence <sup>6</sup>[or lawfully committed to custody], negligently suffers such person to escape from confinement, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

**224. Resistance or obstruction by a person to his lawful apprehension.**—Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself for any offence with which he is charged or of which he has been convicted, or escapes or attempts to escape from any custody in which he is lawfully detained for any such offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

*Explanation.*—The punishment in this section is in addition to the punishment for which the person to be apprehended or detained in custody was liable for the offence with which he was charged, or of which he was convicted.

**225. Resistance or obstruction to lawful apprehension of another person.**—Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of any other person for an offence, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained for an offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

or, if the person to be apprehended, or the person rescued or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with <sup>1</sup>[imprisonment for life] or imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

or, if the person to be apprehended or rescued, or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with death, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

or, if the person to be apprehended or rescued, or attempted to be rescued, is liable under the sentence of a Court of Justice, or by virtue of a commutation of such a sentence, to <sup>1</sup>[imprisonment for life], <sup>3\*\*\*</sup> <sup>4\*\*\*</sup> <sup>7\*\*\*</sup> or imprisonment, for a term of ten years or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

or, if the person to be apprehended or rescued, or attempted to be rescued, is under sentence of death, shall be punished with <sup>1</sup>[imprisonment for life] or imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

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1. Subs. by Act 26 of 1955, s. 117, and Sch., for “transportation for life” (w.e.f. 1-1-1956).

2. The words “or penal servitude for life,” omitted by Act 17 of 1949, s. 2 (w.e.f. 6-4-1949).

3. The words “or to” omitted by Act 36 of 1957, s. 3 and the Second Sch.

4. The word “transportation” omitted by Act 26 of 1955, s. 117 and the Sch. (w.e.f. 1-1-1956).

5. The words “or penal servitude” omitted by Act 17 of 1949, s. 2 (w.e.f. 6-4-1949).

6. Ins. by Act 27 of 1870, s. 8.

7. The words “penal servitude,” omitted by Act 17 of 1949, s. 2 (w.e.f. 6-4-1949).

<sup>1</sup>[**225A. Omission to apprehend, or sufferance of escape, on part of public servant, in cases not otherwise, provided for.**—Whoever, being a public servant legally bound as such public servant to apprehend, or to keep in confinement, any person in any case not provided for in section 221, section 222 or section 223, or in any other law for the time being in force, omits to apprehend that person or suffers him to escape from confinement, shall be punished—

(a) if he does so intentionally, with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and

(b) if he does so negligently, with simple imprisonment for a term which may extend to two years, or with fine, or with both.

**225B. Resistance or obstruction to lawful apprehension, or escape or rescue in cases not otherwise provided for.**—Whoever, in any case not provided for in section 224 or section 225 or in any other law for the time being in force, intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself or of any other person, or escapes or attempts to escape from any custody in which he is lawfully detained, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.]

**226.** [Unlawful return from transportation.] *Rep. by the Code of Criminal Procedure (Amendment) Act, 1955 (26 of 1955), s. 117 and the Sch. (w.e.f. 1-1-1956).*

**227. Violation of condition of remission of punishment.**—Whoever, having accepted any conditional remission of punishment, knowingly violates any condition on which such remission was granted, shall be punished with the punishment to which he was originally sentenced, if he has already suffered no part of that punishment, and if he has suffered any part of that punishment, then with so much of that punishment as he has not already suffered.

**228. Intentional insult or interruption to public servant sitting in judicial proceeding.**—Whoever intentionally offers any insult, or causes any interruption to any public servant, while such public servant is sitting in any stage of a judicial proceeding, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

<sup>2</sup>[**228A. Disclosure of identity of the victim of certain offences, etc.**—(1) Whoever prints or publishes the name or any matter which may make known the identity of any person against whom an <sup>3</sup>[offence under section 376, <sup>4</sup>[section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB] or section 376E] is alleged or found to have been committed (hereafter in this section referred to as the victim) shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine.

(2) Nothing in sub-section (1) extends to any printing or publication of the name or any matter which may make known the identity of the victim if such printing or publication is—

(a) by or under the order in writing of the officer-in-charge of the police station or the police officer making the investigation into such offence acting in good faith for the purposes of such investigation; or

(b) by, or with the authorisation in writing of, the victim; or

(c) where the victim is dead or minor or of unsound mind, by, or with the authorisation in writing of, the next-of-kin of the victim:

Provided that no such authorisation shall be given by the next-of-kin to anybody other than the chairman or the secretary, by whatever name called, of any recognised welfare institution or organisation.

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1. Subs. by Act 10 of 1886, s. 24(1), for section 225A which had been ins. by Act 27 of 1870, s. 9.

2. Ins. by Act 43 of 1983, s. 2.

3. Subs. by Act 13 of 2013, s. 4, for “offence under section 376, section 376A, section 376B, section 376C or section 376D” (w.e.f. 3-2-2013).

4. Subs. by Act 22 of 2018, s. 3, for “section 376A, section 376B, section 376C, section 376D” (w.e.f. 21-4-2018).

*Explanation.*—For the purposes of this sub-section, “recognised welfare institution or organisation” means a social welfare institution or organisation recognised in this behalf by the Central or State Government.

(3) Whoever prints or publishes any matter in relation to any proceeding before a court with respect to an offence referred to in sub-section (1) without the previous permission of such court shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine.

*Explanation.*—The printing or publication of the judgment of any High Court or the Supreme Court does not amount to an offence within the meaning of this section.]

## STATE AMENDMENT

### Arunachal Pradesh

**Amendment of section 228A.**—In section 228A of the Penal Code, in sub-section (1), for the words, figure and letters “offence under section 376, section 376A, section 376B, section 376C or section 376D or section 376E” the words, figure and letters “offence under section 376, section 376A, section 376AA, section 376B, section 376C, section 376D, section 376DA or section 376E” shall be substituted.

[*Vide* Arunachal Pradesh Act 3 of 2019, s. 4]

**229. Personation of a juror or assessor.**—Whoever, by personation or otherwise, shall intentionally cause, or knowingly suffer himself to be returned, empanelled or sworn as a jurymen or assessor in any case in which he knows that he is not entitled by law to be so returned, empanelled or sworn, or knowing himself to have been so returned, empanelled or sworn contrary to law, shall voluntarily serve on such jury or as such assessor, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

<sup>1</sup>**[229A. Failure by person released on bail or bond to appear in court.**—Whoever, having been charged with an offence and released on bail or on bond without sureties, fails without sufficient cause (the burden of proving which shall lie upon him), to appear in court in accordance with the terms of the bail or bond, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

*Explanation.*—The punishment under this section is—

(a) in addition to the punishment to which the offender would be liable on a conviction for the offence with which he has been charged; and

(b) without prejudice to the power of the court to order forfeiture of the bond.]

## CHAPTER XII

### OF OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS

**230. “Coin” defined.**—<sup>2</sup>[Coin is metal used for the time being as money, and stamped and issued by the authority of some State or Sovereign Power in order to be so used.]

<sup>3</sup>**[Indian coin.**—Indian coin is metal stamped and issued by the authority of the Government of India in order to be used as money; and metal which has been so stamped and issued shall continue to be Indian coin for the purposes of this Chapter, notwithstanding that it may have ceased to be used as money.]

#### *Illustrations*

(a) Cowries are not coin.

(b) Lumps of unstamped copper, though used as money, are not coin.

(c) Medals are not coin, in as much as they are not intended to be used as money.

(d) The coin denominated as the Company’s rupee is <sup>4</sup>[Indian coin].

<sup>5</sup>[(e) The “Farukhabad rupee”, which was formerly used as money under the authority of the Government of India, is <sup>6</sup>[Indian coin] although it is no longer so used.]

1. Ins. by Act 25 of 2005, s. 44 (w.e.f. 23-6-2005).

2. Subs. by Act 19 of 1872, s. 1, for the first paragraph.

3. Subs. by the A. O. 1950, for the second paragraph.

4. Subs. *ibid.*, for “the Queen’s coin”.

5. Added by Act 6 of 1896, s. 1(2).

6. Subs. by the A. O. 1950, for “Queen’s coin”

**231. Counterfeiting coin.**—Whoever counterfeits or knowingly performs any part of the process of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

*Explanation.*—A person commits this offence who intending to practise deception, or knowing it to be likely that deception will thereby be practised, causes a genuine coin to appear like a different coin.

**232. Counterfeiting Indian coin.**—Whoever counterfeits, or knowingly performs any part of the process of counterfeiting <sup>1</sup>[Indian coin], shall be punished with <sup>2</sup>[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**233. Making or selling instrument for counterfeiting coin.**—Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

**234. Making or selling instrument for counterfeiting Indian coin.**—Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting <sup>1</sup>[Indian coin], shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**235. Possession of instrument or material for the purpose of using the same for counterfeiting coin.**—Whoever is in possession of any instrument or material, for the purpose of using the same for counterfeiting coin, or knowing or having reason to believe that the same is intended to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

**if Indian coin.**—and if the coin to be counterfeited is <sup>1</sup>[Indian coin], shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**236. Abetting in India the counterfeiting out of India of coin.**—Whoever, being within <sup>3</sup>[India], abets the counterfeiting of coin out of <sup>3</sup>[India], shall be punished in the same manner as if he abetted the counterfeiting of such coin within <sup>3</sup>[India].

**237. Import or export of counterfeit coin.**—Whoever imports into <sup>3</sup>[India], or exports therefrom, any counterfeit coin, knowing or having reason to believe that the same is counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

**238. Import or export of counterfeits of the Indian coin.**—Whoever imports into <sup>3</sup>[India], or exports therefrom, any counterfeit coin, which he knows or has reason to believe to be a counterfeit of <sup>1</sup>[Indian coin], shall be punished with <sup>2</sup>[Imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**239. Delivery of coin, possessed with knowledge that it is counterfeit.**—Whoever, having any counterfeit coin, which at the time when he became possessed of it, he knew to be counterfeit, fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

**240. Delivery of Indian coin, possessed with knowledge that it is counterfeit.**—Whoever, having any counterfeit coin, which is a counterfeit of <sup>4</sup>[Indian coin], and which, at the time when he became possessed of it, he knew to be a counterfeit of <sup>4</sup>[Indian coin], fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**241. Delivery of coin as genuine, which, when first possessed, the deliverer did not know to be counterfeit.**—Whoever delivers to any other person as genuine, or attempts to induce any other person to

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1. Subs. by the A. O. 1950, for “the Queen’s coin”

2. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

3. The words “British India” have successively been subs. by the A. O. 1948, the A. O. 1950 and Act 3 of 1951, s. 3 and the Sch., to read as above.

4. Subs. by the A.O. 1950, for “Queen’s coin”.

receive as genuine, any counterfeit coin which he knows to be counterfeit, but which he did not know to be counterfeit at the time when he took it into his possession, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin counterfeited, or with both.

*Illustration*

A, a coiner, delivers counterfeit Company's rupees to his accomplice B, for the purpose of uttering them. B sells the rupees to C, another utterer, who buys them knowing them to be counterfeit. C pays away the rupees for goods to D, who receives them, not knowing them to be counterfeit. D, after receiving the rupees, discovers that they are counterfeit and pays them away as if they were good. Here D is punishable only under this section, but B and C are punishable under section 239 or 240, as the case may be.

**242. Possession of counterfeit coin by person who knew it to be counterfeit when he became possessed thereof.**—Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

**243. Possession of Indian coin by person who knew it to be counterfeit when he became possessed thereof.**—Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin, which is a counterfeit of <sup>1</sup>[Indian coin], having known at the time when he became possessed of it that it was counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**244. Person employed in mint causing coin to be of different weight or composition from that fixed by law.**—Whoever, being employed in any mint lawfully established in <sup>2</sup>[India], does any act, or omits what he is legally bound to do, with the intention of causing any coin issued from that mint to be of a different weight or composition from the weight or composition fixed by law shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**245. Unlawfully taking coining instrument from mint.**—Whoever, without lawful authority, takes out of any mint, lawfully established in <sup>2</sup>[India], any coining tool or instrument, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**246. Fraudulently or dishonestly diminishing weight or altering composition of coin.**—Whoever fraudulently or dishonestly performs on any coin any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

*Explanation.*—A person who scoops out part of the coin and puts anything else into the cavity alters the composition of that coin.

**247. Fraudulently or dishonestly diminishing weight or altering composition of Indian coin.**—Whoever fraudulently or dishonestly performs on <sup>3</sup>[any Indian coin] any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**248. Altering appearance of coin with intent that it shall pass as coin of different description.**—Whoever performs on any coin any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

**249. Altering appearance of Indian coin with intent that it shall pass as coin of different description.**—Whoever performs on <sup>3</sup>[any Indian coin] any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description, shall be punished

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1. Subs. by the A. O. 1950, for “the Queen’s coin”.

2. The words “British India” have successively been subs. by the A. O. 1948, the A. O. 1950 and Act 3 of 1951, s. 3 and the Sch., to read as above.

3. Subs. by the A. O. 1950, for “any of the Queen’s coin”.

with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**250. Delivery of coin, possessed with knowledge that it is altered.**—Whoever, having coin in his possession with respect to which the offence defined in section 246 or 248 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

**251. Delivery of Indian coin, possessed with knowledge that it is altered.**—Whoever, having coin in his possession with respect to which the offence defined in section 247 or 249 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**252. Possession of coin by person who knew it to be altered when he became possessed thereof.**—Whoever, fraudulently or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the section 246 or 248 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

**253. Possession of Indian coin by person who knew it to be altered when he became possessed thereof.**—Whoever, fraudulently or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the section 247 or 249 has been committed having known at the time of becoming possessed thereof, that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

**254. Delivery of coin as genuine, which, when first possessed, the deliverer did not know to be altered.**—Whoever delivers to any other person as genuine or as a coin of a different description from what it is, or attempts to induce any person to receive as genuine, or as a different coin from what it is, any coin in respect of which he knows that any such operation as that mentioned in section 246, 247, 248 or 249 has been performed, but in respect of which he did not, at the time when he took it into his possession, know that such operation had been performed, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin for which the altered coin is passed, or attempted to be passed.

**255. Counterfeiting Government stamp.**—Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any stamp issued by Government for the purpose of revenue, shall be punished with <sup>1</sup>[imprisonment for life] or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

*Explanation.*—A person commits this offence who counterfeits by causing a genuine stamp of one denomination to appear like a genuine stamp of a different denomination.

**256. Having possession of instrument or material for counterfeiting Government stamp.**—Whoever has in his possession any instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**257. Making or selling instrument for counterfeiting Government stamp.**—Whoever makes or performs any part of the process of making, or buys, or sells, or disposes of, any instrument for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished

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1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).



with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**258. Sale of counterfeit Government stamp.**—Whoever sells, or offers for sale, any stamp which he knows or has reason to believe to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**259. Having possession of counterfeit Government stamp.**—Whoever has in his possession any stamp which he knows to be a counterfeit of any stamp issued by Government for the purpose of revenue, intending to use, or dispose of the same as a genuine stamp, or in order that it may be used as a genuine stamp, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**260. Using as genuine a Government stamp known to be counterfeit.**—Whoever uses as genuine any stamp, knowing it to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

**261. Effacing writing from substance bearing Government stamp, or removing from document a stamp used for it, with intent to cause loss to Government.**—Whoever, fraudulently or with intent to cause loss to the Government, removes or effaces from any substance, bearing any stamp issued by Government for the purpose of revenue, any writing or document for which such stamp has been used, or removes from any writing or document a stamp which has been used for such writing or document, in order that such stamp may be used for a different writing or document, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**262. Using Government stamp known to have been before used.**—Whoever, fraudulently or with intent to cause loss to the Government, uses for any purpose a stamp issued by Government for the purpose of revenue, which he knows to have been before used, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**263. Erasure of mark denoting that stamp has been used.**—Whoever, fraudulently or with intent to cause loss to Government, erases or removes from a stamp issued by Government for the purpose of revenue, any mark, put or impressed upon such stamp for the purpose of denoting that the same has been used, or knowingly has in his possession or sells or disposes of any such stamp from which such mark has been erased or removed, or sells or disposes of any such stamp which he knows to have been used, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

<sup>1</sup>[**263A. Prohibition of fictitious stamps.**—(1) Whoever—

(a) makes, knowingly utters, deals in or sells any fictitious stamp, or knowingly uses for any postal purpose any fictitious stamp, or

(b) has in his possession, without lawful excuse, any fictitious stamp, or

(c) makes or, without lawful excuse, has in his possession any die, plate, instrument or materials for making any fictitious stamp,

shall be punished with fine which may extend to two hundred rupees.

(2) Any such stamps, die, plate, instrument or materials in the possession of any person for making any fictitious stamp <sup>2</sup>[may be seized and, if seized] shall be forfeited.

(3) In this section “fictitious stamp” means any stamp falsely purporting to be issued by Government for the purpose of denoting a rate of postage, or any facsimile or imitation or representation, whether on paper or otherwise, of any stamp issued by Government for that purpose.

(4) In this section and also in sections 255 to 263, both inclusive, the word “Government”, when used in connection with, or in reference to, any stamp issued for the purpose of denoting a rate of postage,

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1. Added by Act 3 of 1895, s. 2.

2. Subs. by Act 42 of 1953, s. 4 and the Third Sch., for “may be seized and”.

shall, notwithstanding anything in section 17, be deemed to include the person or persons authorized by law to administer executive government in any part of India, and also in any part of Her Majesty's dominions or in any foreign country.]

## CHAPTER XIII

### OF OFFENCES RELATING TO WEIGHTS AND MEASURES

**264. Fraudulent use of false instrument for weighing.**—Whoever fraudulently uses any instrument for weighing which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

**265. Fraudulent use of false weight or measure.**—Whoever fraudulently uses any false weight or false measure of length or capacity, or fraudulently uses any weight or any measure of length or capacity as a different weight or measure from what it is, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

**266. Being in possession of false weight or measure.**—Whoever is in possession of any instrument for weighing, or of any weight, or of any measure of length or capacity, which he knows to be false, <sup>1\*\*\*</sup> intending that the same may be fraudulently used, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

**267. Making or selling false weight or measure.**—Whoever makes, sells or disposes of any instrument for weighing, or any weight, or any measure of length or capacity which he knows to be false, in order that the same may be used as true, or knowing that the same is likely to be used as true, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

## CHAPTER XIV

### OF OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS

**268. Public nuisance.**—A person is guilty of a public nuisance who does any act or is guilty of an illegal omission which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right.

A common nuisance is not excused on the ground that it causes some convenience or advantage.

**269. Negligent act likely to spread infection of disease dangerous to life.**—Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

**270. Malignant act likely to spread infection of disease dangerous to life.**—Whoever maliciously does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**271. Disobedience to quarantine rule.**—Whoever knowingly disobeys any rule made and promulgated <sup>2</sup>[by the <sup>3\*\*\*</sup> Government <sup>4\*\*\*</sup>] for putting any vessel into a state of quarantine, or for regulating the intercourse of vessels in a state of quarantine with the shore or with other vessels, or for regulating the intercourse between places where an infectious disease prevails and other places, shall be

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1. The word “and” omitted by Act 42 of 1953, s. 4 and the Third Sch.

2. Subs. by the A. O. 1937, for “by the G. of I., or by any Govt.”.

3. The words “Central or any Provincial” omitted by the A. O. 1950.

4. The words “or the Crown Representative” omitted by the A. O. 1948.

punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

**272. Adulteration of food or drink intended for sale.**—Whoever adulterates any article of food or drink, so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**273. Sale of noxious food or drink.**—Whoever sells, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or is in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**274. Adulteration of drugs.**—Whoever adulterates any drug or medical preparation in such a manner as to lessen the efficacy or change the operation of such drug or medical preparation, or to make it noxious, intending that it shall be sold or used for, or knowing it to be likely that it will be sold or used for, any medicinal purpose, as if it had not undergone such adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**275. Sale of adulterated drugs.**—Whoever, knowing any drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy, to change its operation, or to render it noxious, sells the same, or offers or exposes it for sale, or issues it from any dispensary for medicinal purposes as unadulterated, or causes it to be used for medicinal purposes by any person not knowing of the adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**276. Sale of drug as a different drug or preparation.**—Whoever knowingly sells, or offers or exposes for sale, or issues from a dispensary for medicinal purposes, any drug or medical preparation, as a different drug or medical preparation, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**277. Fouling water of public spring or reservoir.**—Whoever voluntarily corrupts or fouls the water of any public spring or reservoir, so as to render it less fit for the purpose for which it is ordinarily used, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

**278. Making atmosphere noxious to health.**—Whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling or carrying on business in the neighbourhood or passing along a public way, shall be punished with fine which may extend to five hundred rupees.

**279. Rash driving or riding on a public way.**—Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**280. Rash navigation of vessel.**—Whoever navigates any vessel in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**281. Exhibition of false light, mark or buoy.**—Whoever exhibits any false light, mark or buoy, intending or knowing it to be likely that such exhibition will mislead any navigator, shall be punished

with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

**282. Conveying person by water for hire in unsafe or overloaded vessel.**—Whoever knowingly or negligently conveys, or causes to be conveyed for hire, any person by water in any vessel, when that vessel is in such a state or so loaded as to endanger the life of that person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**283. Danger or obstruction in public way or line of navigation.**—Whoever, by doing any act, or by omitting to take order with any property in his possession or under his charge, causes danger, obstruction or injury to any person in any public way or public line of navigation, shall be punished, with fine which may extend to two hundred rupees.

**284. Negligent conduct with respect to poisonous substance.**—Whoever does, with any poisonous substance, any act in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any person,

or knowingly or negligently omits to take such order with any poisonous substance in his possession as is sufficient to guard against probable danger to human life from such poisonous substance,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**285. Negligent conduct with respect to fire or combustible matter.**—Whoever does, with fire or any combustible matter, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person,

or knowingly or negligently omits to take such order with any fire or any combustible matter in his possession as is sufficient to guard against any probable danger to human life from such fire or combustible matter,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**286. Negligent conduct with respect to explosive substance.**—Whoever does, with any explosive substance, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person,

or knowingly or negligently omits to take such order with any explosive substance in his possession as is sufficient to guard against any probable danger to human life from that substance,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**287. Negligent conduct with respect to machinery.**—Whoever does, with any machinery, any act so rashly or negligently as to endanger human life or to be likely to cause hurt or injury to any other person,

or knowingly or negligently omits to take such order with any machinery in his possession or under his care as is sufficient to guard against any probable danger to human life from such machinery,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**288. Negligent conduct with respect to pulling down or repairing buildings.**—Whoever, in pulling down or repairing any building, knowingly or negligently omits to take such order with that building as is sufficient to guard against any probable danger to human life from the fall of that building, or of any part thereof, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**289. Negligent conduct with respect to animal.**—Whoever knowingly or negligently omits to take such order with any animal in his possession as is sufficient to guard against any probable danger to human life, or any probable danger of grievous hurt from such animal, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

## STATE AMENDMENTS

### Himachal Pradesh.—

After section 289 of the Indian Penal Code, in its application to the State of Himachal Pradesh, the following section shall be added, namely: —

**“289-A. Feeding of Monkeys in public place.**—Whoever throws eatables in public place, other than those notified by the State Government in the Official Gazette, and thereby entice monkeys to assemble at such place for taking eatables which result in causing danger to human life or to be likely to cause injury or annoyance to the public or to the people in general or to cause hindrance in smooth running of vehicular traffic, shall be punished with imprisonment of either description for a term which may extend to one month or with fine which may extend to one thousand rupees or with both”.

[Vide Himachal Pradesh Act 15 of 2006, sec. 2].

**290. Punishment for public nuisance in cases not otherwise provided for.**—Whoever commits a public nuisance in any case not otherwise punishable by this Code, shall be punished with fine which may extend to two hundred rupees.

**291. Continuance of nuisance after injunction to discontinue.**—Whoever repeats or continues a public nuisance, having been enjoined by any public servant who has lawful authority to issue such injunction not to repeat or continue such nuisance, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

<sup>1</sup>[**292. Sale, etc., of obscene books, etc.**—<sup>2</sup>[(1) For the purposes of sub-section (2), a book, pamphlet, paper, writing, drawing, painting, representation, figure or any other object, shall be deemed to be obscene if it is lascivious or appeals to the prurient interest or if its effect, or (where it comprises two or more distinct items) the effect of any one of its items, is, if taken as a whole, such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it.]

<sup>3</sup>[(2)] Whoever—

(a) sells, lets to hire, distributes, publicly exhibits or in any manner puts into circulation, or for purposes of sale, hire, distribution, public exhibition or circulation, makes, produces or has in his possession any obscene book, pamphlet, paper, drawing, painting, representation or figure or any other obscene object whatsoever, or

(b) imports, exports or conveys any obscene object for any of the purposes aforesaid, or knowing or having reason to believe that such object will be sold, let to hire, distributed or publicly exhibited or in any manner put into circulation, or

(c) takes part in or receives profits from any business in the course of which he knows or has reason to believe that any such obscene objects are, for any of the purposes aforesaid, made, produced, purchased, kept, imported, exported, conveyed, publicly exhibited or in any manner put into circulation, or

(d) advertises or makes known by any means whatsoever that any person is engaged or is ready to engage in any act which is an offence under this section, or that any such obscene object can be procured from or through any person, or

(e) offers or attempts to do any act which is an offence under this section,

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1. Subs. by Act 8 of 1925, s. 2, for s. 292.

2. Ins. by Act 36 of 1969, s. 2.

3. S. 292 renumbered as sub-section (2) thereof by Act 36 of 1969, s. 2.

shall be punished <sup>1</sup>[on first conviction with imprisonment of either description for a term which may extend to two years, and with fine which may extend to two thousand rupees, and, in the event of a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and also with fine which may extend to five thousand rupees].

<sup>2</sup>[*Exception*.—This section does not extend to—

(a) any book, pamphlet, paper, writing, drawing, painting, representation or figure—

(i) the publication of which is proved to be justified as being for the public good on the ground that such book, pamphlet, paper, writing, drawing, painting, representation or figure is in the interest of science, literature, art or learning or other objects of general concern, or

(ii) which is kept or used *bona fide* for religious purposes;

(b) any representation sculptured, engraved, painted or otherwise represented on or in—

(i) any ancient monument within the meaning of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958), or

(ii) any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose.]]

## STATE AMENDMENT

### Orissa

**Amendment of section 292 (45 of 1860).**--In section 292 of the Indian Penal Code (hereinafter Act referred to as the said Code), for the words “which may extend to three months” the words “which may extend to two years” shall be substituted and the following proviso shall be inserted before the Exception, namely:—

“Provided that for a second or any subsequent offence under this section, he shall be punished with imprisonment of either description for a term which shall not be less than six months and not more than two years and with fine.”

[*Vide* Orissa Act 13 of 1962, s. 2]

**Insertion of new section 292-A in Act 45 of 1860.**—After section 292 of the said Code, the following new section shall be inserted, namely:--

**“292-A. Printing, etc., of grossly indecent or scurrilous matter or matter intended for black mail.**—Whoever—

(a) Prints or causes to be printed in any newspaper, periodical or circular or exhibits or causes to be exhibited to public view or distributes or causes to be distributed or in any manner puts into circulation any picture or any printed or written document which is grossly indecent, or is scurrilous or intended for blackmail; or

(b) Sells or lets for hire, or for purposes of sale or hire makes, produces or has in his possession, any picture or any printed or written document which is grossly indecent or is scurrilous or intended for blackmail; or

(c) conveys any picture or any printed or written document which is grossly indecent or is scurrilous or intended for blackmail knowing or having reason to believe that such picture or document will be printed, sold, let for hire, distributed or publicly exhibited or in any manner put into circulation; or

(d) takes part in or receives profits from, any business in the course of which he knows or has reason to believe that any business in the course of which he knows or has reason to believe that any such newspaper, periodical, circular, picture or other printed or written document is printed, exhibited, distributed, circulated, sold, let for hire, made, produced, kept, conveyed or purchased; or

(e) advertises or makes known by any means whatsoever that any person is engaged or is ready to engage in any act which is an offence under this section, or that any such newspaper, periodical, circular, picture or other printed or written document which is grossly indecent or is scurrilous or intended for blackmail can be procured from or through any person; or

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1. Subs. Act 36 of 1969, s. 2, for certain words (w.e.f. 7-9-1969).

2. Subs. by s. 2, *ibid.*, for *Exception* (w.e.f. 7-9-1969).

(f) offers or attempts to do any act which is an offence under this section, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both:

Provided that for a second or any subsequent offence under this section, he shall be punished with imprisonment of either description for a term which shall not be less than six months and not more than two years and with fine.

*Explanation I*— For the purpose of this section, the word “scurrilous” shall be deemed to include any matter which is likely to be injurious to morality or is calculated to injure any person:

Provided that it is not scurrilous to express in good faith anything whatever respecting the conduct of—

(I) a public servant in the discharge of his public functions or respecting his character, so far as his character appears in that conduct and no further ; or

(II) any person touching any public question and respecting his character, so far as his character appears in that conduct and no further.

*Explanation II*— In deciding whether any person has committed an offence under this section, the Court shall have regard, inter alia, to the following considerations, namely:—

(a) the good character of the person charged, and where relevant, the nature of his business;

(b) the general character and dominant effect of the matter alleged to be grossly indecent or scurrilous or intended for blackmail;

(c) Any evidence offered or called by or on behalf of the accused person as to his intention in committing any of the acts specified in this section.”

[*Vide* Orissa Act 13 of 1962, s. 3]

<sup>1</sup>**[293. Sale, etc., of obscene objects to young person.**—Whoever sells, lets to hire, distributes, exhibits or circulates to any person under the age of twenty years any such obscene object as is referred to in the last preceding section, or offers or attempts so to do, shall be punished <sup>2</sup>[on first conviction with imprisonment of either description for a term which may extend to three years, and with fine which may extend to two thousand rupees, and, in the event of a second or subsequent conviction, with imprisonment of either description for a term which may extend to seven years, and also with fine which may extend to five thousand rupees].]

#### STATE AMENDMENT

##### Orissa

**Amendment of section 293.**—In section 293 of the said Code—

(i) for the words “ any such obscene object as is referred to in the last preceding section”, the words, figures and letter “ any such obscene object as is referred to in section 292 or any such newspaper, periodical, circular, picture or other printed or written document as is referred to in section 292-A” shall be substituted;

(ii) for the words “ which may extend to six months”, the words “ which may extend to three years” shall be substituted;

(iii) in the marginal note, after the words “ obscene objects” the words “ and grossly indecent or scurrilous matter or matter intended for blackmail”, shall be inserted.

[*Vide* Orissa Act 13 of 1962, s. 4]

<sup>3</sup>**[294. Obscene acts and songs.**—Whoever, to the annoyance of others,

(a) does any obscene act in any public place, or

(b) sings, recites or utters any obscene song, ballad or words, in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.]

<sup>4</sup>**[294A. Keeping lottery office.**—Whoever keeps any office or place for the purpose of drawing any lottery <sup>5</sup>[not being <sup>6</sup>[a State lottery] or a lottery authorised by the <sup>7</sup>[State] Government], shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

And whoever publishes any proposal to pay any sum, or to deliver any goods, or to do or forbear doing anything for the benefit of any person, on any event or contingency relative or applicable to the drawing of any ticket, lot, number or figure in any such lottery, shall be punished with fine which may extend to one thousand rupees.]

#### CHAPTER XV

#### OF OFFENCES RELATING TO RELIGION

**295. Injuring or defiling place of worship, with intent to insult the religion of any class.**—Whoever destroys, damages or defiles any place of worship, or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge

1. Subs. by Act 8 of 1925, s. 2, for section 293.

2. Subs. by Act 36 of 1969, s. 2, for certain words (w.e.f. 7-9-1969).

3. Subs. by Act 3 of 1895, s. 3, for section 294.

4. Ins. by Act 27 of 1870, s. 10.

5. Subs. by the A. O. 1937, for “not authorized by Government”.

6. Subs. by Act 3 of 1951, s. 3 and the Sch., for “a lottery organized by the Central Government or the Government of a Part A State or a Part B State”.

7. Subs. by the A. O. 1950, for “Provincial”.

that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

<sup>1</sup>[**295A. Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs.**—Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of <sup>2</sup>[citizens of India], <sup>3</sup>[by words, either spoken or written, or by signs or by visible representations or otherwise], insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to <sup>4</sup>[three years], or with fine, or with both.]

**296. Disturbing religious assembly.**—Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship, or religious ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

**297. Trespassing on burial places, etc.**—Whoever, with the intention of wounding the feelings of any person, or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby,

commits any trespass in any place of worship or on any place of sepulture, or any place set apart for the performance of funeral rites or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies,

shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

**298. Uttering words, etc., with deliberate intent to wound religious feelings.**—Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person or makes any gesture in the sight of that person or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

## CHAPTER XVI

### OF OFFENCES AFFECTING THE HUMAN BODY

#### *Of offences affecting life*

**299. Culpable homicide.**—Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.

#### *Illustrations*

(a) A lays sticks and turf over a pit, with the intention of thereby causing death, or with the knowledge that death is likely to be thereby caused. Z, believing the ground to be firm, treads on it, falls in and is killed. A has committed the offence of culpable homicide.

(b) A knows Z to be behind a bush. B does not know it. A, intending to cause, or knowing it to be likely to cause Z's death, induces B to fire at the bush. B fires and kills Z. Here B may be guilty of no offence; but A has committed the offence of culpable homicide.

(c) A, by shooting at a fowl with intent to kill and steal it, kills B, who is behind a bush; A not knowing that he was there. Here, although A was doing an unlawful act, he was not guilty of culpable homicide, as he did not intend to kill B, or to cause death by doing an act that he knew was likely to cause death.

**Explanation 1.**—A person who causes bodily injury to another who is labouring under a disorder, disease or bodily infirmity, and thereby accelerates the death of that other, shall be deemed to have caused his death.

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1. Ins. by Act 25 of 1927, s. 2.

2. Subs. by the A. O. 1950, for "His Majesty's subjects".

3. Subs. by Act 41 of 1961, s. 3, for certain words (w.e.f. 27-9-1961).

4. Subs. by s. 3, *ibid.*, for "two years".



*Explanation 2.*—Where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skilful treatment the death might have been prevented.

*Explanation 3.*—The causing of the death of a child in the mother's womb is not homicide. But it may amount to culpable homicide to cause the death of a living child, if any part of that child has been brought forth, though the child may not have breathed or been completely born.

**300. Murder.**—Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or—

*2ndly.*—If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or—

*3rdly.*—If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or—

*4thly.*—If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

#### *Illustrations*

(a) A shoots Z with the intention of killing him. Z dies in consequence. A commits murder.

(b) A, knowing that Z is labouring under such a disease that a blow is likely to cause his death, strikes him with the intention of causing bodily injury. Z dies in consequence of the blow. A is guilty of murder, although the blow might not have been sufficient in the ordinary course of nature to cause the death of a person in a sound state of health. But if A, not knowing that Z is labouring under any disease, gives him such a blow as would not in the ordinary course of nature kill a person in a sound state of health, here A, although he may intend to cause bodily injury, is not guilty of murder, if he did not intend to cause death, or such bodily injury as in the ordinary course of nature would cause death.

(c) A intentionally gives Z a sword-cut or club-wound sufficient to cause the death of a man in the ordinary course of nature. Z dies in consequence. Here A is guilty of murder, although he may not have intended to cause Z's death.

(d) A without any excuse fires a loaded cannon into a crowd of persons and kills one of them. A is guilty of murder, although he may not have had a premeditated design to kill any particular individual.

**Exception 1.—When culpable homicide is not murder.**—Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation or causes the death of any other person by mistake or accident.

The above exception is subject to the following provisos:—

*First.*—That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person.

*Secondly.*—That the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant.

*Thirdly.*—That the provocation is not given by anything done in the lawful exercise of the right of private defence.

*Explanation.*—Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder is a question of fact.

#### *Illustrations*

(a) A, under the influence of passion excited by a provocation given by Z, intentionally kills Y, Z's child. This is murder, inasmuch as the provocation was not given by the child, and the death of the child was not caused by accident or misfortune in doing an act caused by the provocation.

(b) Y gives grave and sudden provocation to A. A, on this provocation, fires a pistol at Y, neither intending nor knowing himself to be likely to kill Z, who is near him, but out of sight. A kills Z. Here A has not committed murder, but merely culpable homicide.

(c) A is lawfully arrested by Z, a bailiff. A is excited to sudden and violent passion by the arrest, and kills Z. This is murder, inasmuch as the provocation was given by a thing done by a public servant in the exercise of his powers.

(d) A appears as a witness before Z, a Magistrate. Z says that he does not believe a word of A's deposition, and that A has perjured himself. A is moved to sudden passion by these words, and kills Z. This is murder.

(e) A attempts to pull Z's nose. Z, in the exercise of the right of private defence, lays hold of A to prevent him from doing so. A is moved to sudden and violent passion in consequence, and kills Z. This is murder, inasmuch as the provocation was giving by a thing done in the exercise of the right of private defence.

(f) Z strikes B. B is by this provocation excited to violent rage. A, a bystander, intending to take advantage of B's rage, and to cause him to kill Z, puts a knife into B's hand for that purpose. B kills Z with the knife. Here B may have committed only culpable homicide, but A is guilty of murder.

**Exception 2.**—Culpable homicide is not murder if the offender, in the exercise in good faith of the right of private defence of person or property, exceeds the power given to him by law and causes the death of the person against whom he is exercising such right of defence without premeditation, and without any intention of doing more harm than is necessary for the purpose of such defence.

#### *Illustration*

Z attempts to horsewhip A, not in such a manner as to cause grievous hurt to A. A draws out a pistol. Z persists in the assault. A believing in good faith that he can by no other means prevent himself from being horsewhipped, shoots Z dead. A has not committed murder, but only culpable homicide.

**Exception 3.**—Culpable homicide is not murder if the offender, being a public servant or aiding a public servant acting for the advancement of public justice, exceeds the powers given to him by law, and causes death by doing an act which he, in good faith, believes to be lawful and necessary for the due discharge of his duty as such public servant and without ill-will towards the person whose death is caused.

**Exception 4.**—Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender's having taken undue advantage or acted in a cruel or unusual manner.

**Explanation.**—It is immaterial in such cases which party offers the provocation or commits the first assault.

**Exception 5.**—Culpable homicide is not murder when the person whose death is caused, being above the age of eighteen years, suffers death or takes the risk of death with his own consent.

#### *Illustration*

A, by instigation, voluntarily causes Z, a person under eighteen years of age to commit suicide. Here, on account of Z's youth, he was incapable of giving consent to his own death; A has therefore abetted murder.

**301. Culpable homicide by causing death of person other than person whose death was intended.**—If a person, by doing anything which he intends or knows to be likely to cause death, commits culpable homicide by causing the death of any person, whose death he neither intends nor knows himself to be likely to cause, the culpable homicide committed by the offender is of the description of which it would have been if he had caused the death of the person whose death he intended or knew himself to be likely to cause.

**302. Punishment for murder.**—Whoever commits murder shall be punished with death, or <sup>1</sup>[imprisonment for life], and shall also be liable to fine.

**303. Punishment for murder by life-convict.**—Whoever, being under sentence of <sup>1</sup>[imprisonment for life], commits murder shall be punished with death.

**304. Punishment for culpable homicide not amounting to murder.**—Whoever commits culpable homicide not amounting to murder shall be punished with <sup>1</sup>[imprisonment for life], or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death;

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1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.

<sup>1</sup>[**304A. Causing death by negligence.**—Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.]

## STATE AMENDMENTS

### Himachal Pradesh.—

**After Section 304 A of the Indian Penal Code, 1860, in its application to the State of Himachal Pradesh, the following section shall be added, namely: —**

**“304-AA. Causing death or injury by driving a public service vehicle while in a state of intoxication.**—Whoever, while in a state of intoxication, drives or attempts to drive a public service vehicle and causes the death of any person not amounting to culpable homicide, or causes any bodily injury likely to cause death, shall be punished with imprisonment for life, or imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine, as if the act by which death or bodily injury is caused, is done with the knowledge that he is likely by such act to cause death or cause such bodily injury as is likely to cause death.

*Explanation.* —“Public service vehicle” means any motor vehicle used or adapted to be used for the carriage of passengers for hire or reward, and includes a maxicab, a motorcab, contract carriage and stage carriage”.

[*Vide* Himachal Pradesh Act 19 of 1997, sec. 2].

**In Section 304-AA of the Indian Penal Code, 1860, in its application to the State of Himachal Pradesh, —**

(a) for the words “a public service vehicle” where ever these occur, the words “any vehicle” shall be substituted; and

(b) the Explanation shall be omitted.

[*Vide* Himachal Pradesh Act 7 of 2012, s. 2]

<sup>2</sup>[**304B. Dowry death.**—(1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called “dowry death”, and such husband or relative shall be deemed to have caused her death.

*Explanation.*—For the purposes of this sub-section, “dowry” shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.]

**305. Abetment of suicide of child or insane person.**—If any person under eighteen years of age, any insane person, any delirious person, any idiot, or any person in a state of intoxication, commits

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1. Ins. by Act 27 of 1870, s. 12.

2. Ins. by Act 43 of 1986, s. 10 (w.e.f. 19-11-1986).

suicide, whoever abets the commission of such suicide, shall be punished with death or <sup>1</sup>[imprisonment for life], or imprisonment for a term not exceeding ten years, and shall also be liable to fine.

**306. Abetment of suicide.**—If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**307. Attempt to murder.**—Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to <sup>1</sup>[imprisonment for life], or to such punishment as is hereinbefore mentioned.

**Attempts by life-convicts.**—<sup>2</sup>[When any person offending under this section is under sentence of <sup>1</sup>[imprisonment for life], he may, if hurt is caused, be punished with death.]

#### *Illustrations*

(a) A shoots at Z with intention to kill him, under such circumstances that, if death ensued, A would be guilty of murder. A is liable to punishment under this section.

(b) A, with the intention of causing the death of a child of tender years, exposes it in a desert place. A has committed the offence defined by this section, though the death of the child does not ensue.

(c) A, intending to murder Z, buys a gun and loads it. A has not yet committed the offence. A fires the gun at Z. He has committed the offence defined in this section, and, if by such firing he wounds Z, he is liable to the punishment provided by the latter part of <sup>3</sup>[the first paragraph of] this section.

(d) A, intending to murder Z by poison, purchases poison and mixes the same with food which remains in A's keeping; A has not yet committed the offence defined in this section. A places the food on Z's table or delivers it to Z's servants to place it on Z's table. A has committed the offence defined in this section.

**308. Attempt to commit culpable homicide.**—Whoever does any act with such intention or knowledge and under such circumstances that, if he by that act caused death, he would be guilty of culpable homicide not amounting to murder, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

#### *Illustration*

A, on grave and sudden provocation, fires a pistol at Z, under such circumstances that if he thereby caused death he would be guilty of culpable homicide not amounting to murder. A has committed the offence defined in this section.

**309. Attempt to commit suicide.**—Whoever attempts to commit suicide and does any act towards the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year <sup>4</sup>[or with fine, or with both.]

**310. Thug.**—Whoever, at any time after the passing of this Act, shall have been habitually associated with any other or others for the purpose of committing robbery or child-stealing by means of or accompanied with murder, is a thug.

**311. Punishment.**—Whoever is a thug, shall be punished with <sup>1</sup>[imprisonment for life], and shall also be liable to fine.

*Of the causing of miscarriage, of injuries to unborn children, of the exposure of infants, and of the concealment of births.*

**312. Causing miscarriage.**—Whoever voluntarily causes a woman with child to miscarry, shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if the woman be quick with child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

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1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

2. Ins. by Act 24 of 1870, s. 11.

3. Ins. by Act 12 of 1891, s. 2 and the Second Sch.

4. Subs. by Act 8 of 1882, s. 7, for “and shall also be liable to fine”.

*Explanation.*—A woman who causes herself to miscarry, is within the meaning of this section.

**313. Causing miscarriage without woman's consent.**—Whoever commits the offence defined in the last preceding section without the consent of the woman, whether the woman is quick with child or not, shall be punished with <sup>1</sup>[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**314. Death caused by act done with intent to cause miscarriage.**—Whoever, with intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine;

**if act done without woman's consent.**—and if the act is done without the consent of the woman, shall be punished either with <sup>1</sup>[imprisonment for life], or with the punishment above mentioned.

*Explanation.*—It is not essential to this offence that the offender should know that the act is likely to cause death.

**315. Act done with intent to prevent child being born alive or to cause it to die after birth.**—Whoever before the birth of any child does any act with the intention of thereby preventing that child from being born alive or causing it to die after its birth, and does by such act prevent that child from being born alive, or causes it to die after its birth, shall, if such act be not caused in good faith for the purpose of saving the life of the mother, be punished with imprisonment of either description for a term which may extend to ten years, or with fine, or with both.

**316. Causing death of quick unborn child by act amounting to culpable homicide.**—Whoever does any act under such circumstances, that if he thereby caused death he would be guilty of culpable homicide, and does by such act cause the death of a quick unborn child, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

#### *Illustration*

A, knowing that he is likely to cause the death of a pregnant woman, does an act which, if it caused the death of the woman, would amount to culpable homicide. The woman is injured, but does not die; but the death of an unborn quick child with which she is pregnant is thereby caused. A is guilty of the offence defined in this section.

**317. Exposure and abandonment of child under twelve years, by parent or person having care of it.**—Whoever being the father or mother of a child under the age of twelve years, or having the care of such child, shall expose or leave such child in any place with the intention of wholly abandoning such child, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

*Explanation.*—This section is not intended to prevent the trial of the offender for murder or culpable homicide, as the case may be, if the child die in consequence of the exposure.

**318. Concealment of birth by secret disposal of dead body.**—Whoever, by secretly burying or otherwise disposing of the dead body of a child whether such child die before or after or during its birth, intentionally conceals or endeavors to conceal the birth of such child, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

#### *Of Hurt*

**319. Hurt.**—Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt.

**320. Grievous hurt.**—The following kinds of hurt only are designated as “grievous”:—

*First.*—Emasculation.

*Secondly.*—Permanent privation of the sight of either eye.

*Thirdly.*—Permanent privation of the hearing of either ear.

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1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

*Fourthly.*—Privation of any member or joint.

*Fifthly.*—Destruction or permanent impairing of the powers of any member or joint.

*Sixthly.*—Permanent disfiguration of the head or face.

*Seventhly.*—Fracture or dislocation of a bone or tooth.

*Eighthly.*—Any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits.

**321. Voluntarily causing hurt.**—Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said “voluntarily to cause hurt”.

**322. Voluntarily causing grievous hurt.**—Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said “voluntarily to cause grievous hurt”.

*Explanation.*—A person is not said voluntarily to cause grievous hurt except when he both causes grievous hurt and intends or knows himself to be likely to cause grievous hurt. But he is said voluntarily to cause grievous hurt, if intending or knowing himself to be likely to cause grievous hurt of one kind, he actually causes grievous hurt of another kind.

#### *Illustration*

A, intending or knowing himself to be likely permanently to disfigure Z's face, gives Z a blow which does not permanently disfigure Z's face, but which causes Z to suffer severe bodily pain for the space of twenty days. A has voluntarily caused grievous hurt.

**323. Punishment for voluntarily causing hurt.**—Whoever, except in the case provided for by section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

**324. Voluntarily causing hurt by dangerous weapons or means.**—Whoever, except in the case provided for by section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**325. Punishment for voluntarily causing grievous hurt.**—Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**326. Voluntarily causing grievous hurt by dangerous weapons or means.**—Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with <sup>1</sup>[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

<sup>2</sup>**[326A. Voluntarily causing grievous hurt by use of acid, etc.]**—Whoever causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables, any part or parts of the body of a person or causes grievous hurt by throwing acid on or by administering acid to that person, or by using any other means with the intention of causing or with the knowledge that he is likely to cause such injury or hurt, shall be punished with imprisonment of either description for a term which shall not be less than ten years but which may extend to imprisonment for life, and with fine:

1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

2. Ins. by Act 13 of 2013, s. 5 (w.e.f. 3-2-2013).

Provided that such fine shall be just and reasonable to meet the medical expenses of the treatment of the victim:

Provided further that any fine imposed under this section shall be paid to the victim.

**326B. Voluntarily throwing or attempting to throw acid.**—Whoever throws or attempts to throw acid on any person or attempts to administer acid to any person, or attempts to use any other means, with the intention of causing permanent or partial damage or deformity or burns or maiming or disfigurement or disability or grievous hurt to that person, shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to seven years, and shall also be liable to fine.

*Explanation 1.*—For the purposes of section 326A and this section, "acid" includes any substance which has acidic or corrosive character or burning nature, that is capable of causing bodily injury leading to scars or disfigurement or temporary or permanent disability.

*Explanation 2.*—For the purposes of section 326A and this section, permanent or partial damage or deformity shall not be required to be irreversible.]

**327. Voluntarily causing hurt to extort property, or to constrain to an illegal to an act.**—Whoever voluntarily causes hurt, for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything which is illegal or which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**328. Causing hurt by means of poison, etc., with intent to commit and offence.**—Whoever administers to or causes to be taken by any person any poison or any stupefying, intoxicating or unwholesome drug, or other thing with intent to cause hurt to such person, or with intent to commit or to facilitate the commission of an offence or knowing it to be likely that he will thereby cause hurt, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**329. Voluntarily causing grievous hurt to extort property, or to constrain to an illegal act.**—Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer or from any person interested in the sufferer any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything that is illegal or which may facilitate the commission of an offence, shall be punished with <sup>1</sup>[imprisonment for life], or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**330. Voluntarily causing hurt to extort confession, or to compel restoration of property.**—Whoever voluntarily causes hurt, for the purpose of extorting from the sufferer or from any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in the sufferer to restore or to cause the restoration of any property or valuable security or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

#### *Illustrations*

(a) A, a police-officer, tortures Z in order to induce Z to confess that he committed a crime. A is guilty of an offence under this section.

(b) A, a police-officer, tortures B to induce him to point out where certain stolen property is deposited. A is guilty of an offence under this section.

(c) A, a revenue officer, tortures Z in order to compel him to pay certain arrears of revenue due from Z. A is guilty of an offence under this section.

(d) A, a zamindar, tortures a raiyat in order to compel him to pay his rent. A is guilty of an offence under this section.

**331. Voluntarily causing grievous hurt to extort confession, or to compel restoration of property.**—Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer or

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1. Subs. by Act 26 of 1955, s. 117 and the Sch., for "transportation for life" (w.e.f. 1-1-1956).

from any person interested in the sufferer any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in the sufferer to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**332. Voluntarily causing hurt to deter public servant from his duty.**—Whoever voluntarily causes hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

#### STATE AMENDMENT

##### Maharashtra.

**Amendment of section 332 of 45 of 1860.**—In section 332 of the Indian Penal Code, 1860, in its application to the State of Maharashtra (hereinafter, in this Chapter, referred to as “the said Code”), for the words “three years” the words “five years” shall be substituted.

[Vide Maharashtra Act 50 of 2018, sec. 2]

**333. Voluntarily causing grievous hurt to deter public servant from his duty.**—Whoever voluntarily causes grievous hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**334. Voluntarily causing hurt on provocation.**—Whoever voluntarily causes hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

**335. Voluntarily causing grievous hurt on provocation.**—Whoever <sup>1</sup>[voluntarily] causes grievous hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause grievous hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to four years, or with fine which may extend to two thousand rupees, or with both.

*Explanation.*—The last two sections are subject to the same provisos as *Exception 1*, section 300.

**336. Act endangering life or personal safety of others.**—Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to two hundred and fifty rupees, or with both.

**337. Causing hurt by act endangering life or personal safety of others.**—Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

**338. Causing grievous hurt by act endangering life or personal safety of others.**—Whoever causes grievous hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

#### *Of wrongful restraint and wrongful confinement*

**339. Wrongful restraint.**—Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person.

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1. Ins. by Act 8 of 1882, s. 8.



*Exception.*—The obstruction of a private way over land or water which a person in good faith believes himself to have a lawful right to obstruct, is not an offence within the meaning of this section.

*Illustration*

A obstructs a path along which Z has a right to pass, A not believing in good faith that he has a right to stop the path. Z is thereby prevented from passing. A wrongfully restrains Z.

**340. Wrongful confinement.**—Whoever wrongfully restrains any person in such a manner as to prevent that person from proceedings beyond certain circumscribing limits, is said “wrongfully to confine” that person.

*Illustrations*

(a) A causes Z to go within a walled space, and locks Z in Z. is thus prevented from proceeding in any direction beyond the circumscribing line of wall. A wrongfully confines Z.

(b) A places men with firearms at the outlets of a building, and tells Z that they will fire at Z if Z attempts to leave the building. A wrongfully confines Z.

**341. Punishment for wrongful restraint.**—Whoever wrongfully restrains any person shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

**342. Punishment for wrongful confinement.**—Whoever wrongfully confines any person shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

**343. Wrongful confinement for three or more days.**—Whoever wrongfully confines any person for three days, or more, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**344. Wrongful confinement for ten or more days.**—Whoever wrongfully confines any person for ten days, or more, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

**345. Wrongful confinement of person for whose liberation writ has been issued.**—Whoever keeps any person in wrongful confinement, knowing that a writ for the liberation of that person has been duly issued, shall be punished with imprisonment of either description for a term which may extend to two years in addition to any term of imprisonment to which he may be liable under any other section of this Chapter.

**346. Wrongful confinement in secret.**—Whoever wrongfully confines any person in such manner as to indicate an intention that the confinement of such person may not be known to any person interested in the person so confined, or to any public servant, or that the place of such confinement may not be known to or discovered by any such person or public servant as hereinbefore mentioned, shall be punished with imprisonment of either description for a term which may extend to two years in addition to any other punishment to which he may be liable for such wrongful confinement.

**347. Wrongful confinement to extort property, or constrain to illegal act.**—Whoever wrongfully confines any person for the purpose of extorting from the person confined, or from any person interested in the person confined, any property or valuable security or of constraining the person confined or any person interested in such person to do anything illegal or to give any information which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

**348. Wrongful confinement to extort confession, or compel restoration of property.**—Whoever wrongfully confines any person for the purpose of extorting from the person confined or any person interested in the person confined any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the person confined or any person interested in the person confined to restore or to cause the restoration of any property or valuable security or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

## *Of Criminal Force and Assault*

**349. Force.**—A person is said to use force to another if he causes motion, change of motion, or cessation of motion to that other, or if he causes to any substance such motion, or change of motion, or cessation of motion as brings that substance into contact with any part of that other's body, or with anything which that other is wearing or carrying, or with anything so situated that such contact affects that other's sense of feeling: Provided that the person causing the motion, or change of motion, or cessation of motion, causes that motion, change of motion, or cessation of motion in one of the three ways hereinafter described:

*First.*—By his own bodily power.

*Secondly.*—By disposing any substance in such a manner that the motion or change or cessation of motion takes place without any further act on his part, or on the part of any other person.

*Thirdly.*—By inducing any animal to move, to change its motion, or to cease to move.

**350. Criminal force.**—Whoever intentionally uses force to any person, without that person's consent, in order to the committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause injury, fear or annoyance to the person to whom the force is used, is said to use criminal force to that other.

### *Illustrations*

(a) Z is sitting in a moored boat on a river. A unfastens the moorings, and thus intentionally causes the boat to drift down the stream. Here A intentionally causes motion to Z, and he does this by disposing substances in such a manner that the motion is produced without any other action on any person's part. A has therefore intentionally used force to Z; and if he has done so without Z's consent, in order to the committing of any offence, or intending or knowing it to be likely that this use of force will cause injury, fear or annoyance to Z, A has used criminal force to Z.

(b) Z is riding in a chariot. A lashes Z's horses, and thereby causes them to quicken their pace. Here A has caused change of motion to Z by inducing the animals to change their motion. A has therefore used force to Z; and if A has done this without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy Z, A has used criminal force to Z.

(c) Z is riding in a palanquin. A, intending to rob Z, seizes the pole and stops the palanquin. Here A has caused cessation of motion to Z, and he has done this by his own bodily power. A has therefore used force to Z; and as A has acted thus intentionally, without Z's consent, in order to the commission of an offence. A has used criminal force to Z.

(d) A intentionally pushes against Z in the street. Here A has by his own bodily power moved his own person so as to bring it into contact with Z. He has therefore intentionally used force to Z; and if he has done so without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy Z, he has used criminal force to Z.

(e) A throws a stone, intending or knowing it to be likely that the stone will be thus brought into contact with Z, or with Z's clothes, or with something carried by Z, or that it will strike water and dash up the water against Z's clothes or something carried by Z. Here, if the throwing of the stone produce the effect of causing any substance to come into contact with Z, or Z's clothes, A has used force to Z; and if he did so without Z's consent, intending thereby to injure, frighten or annoy Z, he has used criminal force to Z.

(f) A intentionally pulls up a woman's veil. Here A intentionally uses force to her, and if he does so without her consent intending or knowing it to be likely that he may thereby injure, frighten or annoy her, he has used criminal force to her.

(g) Z is bathing. A pours into the bath water which he knows to be boiling. Here A intentionally by his own bodily power causes such motion in the boiling water as brings that water into contact with Z, or with other water so situated that such contact must affect Z's sense of feeling; A has therefore intentionally used force to Z; and if he has done this without Z's consent intending or knowing it to be likely that he may thereby cause injury, fear or annoyance to Z, A has used criminal force.

(h) A incites a dog to spring upon Z, without Z's consent. Here, if A intends to cause injury, fear or annoyance to Z, he uses criminal force to Z.

**351. Assault.**—Whoever makes any gesture, or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.

*Explanation.*—Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparation such a meaning as may make those gestures or preparations amount to an assault.

### *Illustrations*

(a) A shakes his fist at Z, intending or knowing it to be likely that he may thereby cause Z to believe that A is about to strike Z. A has committed an assault.

(b) A begins to unloose the muzzle of a ferocious dog, intending or knowing it to be likely that he may thereby cause Z to believe that he is about to cause the dog to attack Z. A has committed an assault upon Z.

(c) A takes up a stick, saying to Z, “I will give you a beating”. Here, though the words used by A could in no case amount to an assault, and though the mere gesture, unaccompanied by any other circumstances, might not amount to an assault, the gesture explained by the words may amount to an assault.

**352. Punishment for assault or criminal force otherwise than on grave provocation.**—Whoever assaults or uses criminal force to any person otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

*Explanation.*—Grave and sudden provocation will not mitigate the punishment for an offence under this section, if the provocation is sought or voluntarily provoked by the offender as an excuse for the offence, or

if the provocation is given by anything done in obedience to the law, or by a public servant, in the lawful exercise of the powers of such public servant, or

if the provocation is given by anything done in the lawful exercise of the right of private defence.

Whether the provocation was grave and sudden enough to mitigate the offence, is a question of fact.

**353. Assault or criminal force to deter public servant from discharge of his duty.**—Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person to the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

#### STATE AMENDMENT

**Maharashtra.**—

**Amendment of section 353 of 45 of 1860.**—In section 353 of the said Code, for the words “two years” the words “five years” shall be substituted.

[Vide Maharashtra Act 40 of 2018, sec. 3]

**354. Assault or criminal force to woman with intent to outrage her modesty.**—Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will there by outrage her modesty, <sup>1</sup>[shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine].

#### STATE AMENDMENT

**Chhattisgarh**

**In Section 354 of the Penal Code, the following proviso shall be inserted, namely: —**

Provided that where offence is committed, under this Section by a relative, guardian or teacher or a person in a position of trust or authority towards the person assaulted, he shall be punishable with imprisonment of either description for a term which shall not be less than two years but which may extend to seven years and shall also be liable to fine.

[Vide Chhattisgarh Act 25 of 2015, sec. 3]

<sup>2</sup>[**354A. Sexual harassment and punishment for sexual harassment.**—(1) A man committing any of the following acts—

(i) physical contact and advances involving unwelcome and explicit sexual overtures; or

1. Subs. by Act 13 of 2013, s. 6, for “shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both” (w.e.f. 3-2-2013).

2. Ins. by s. 7, *ibid.*, (w.e.f. 3-2-2013).

- (ii) a demand or request for sexual favours; or
- (iii) showing pornography against the will of a woman; or
- (iv) making sexually coloured remarks,

shall be guilty of the offence of sexual harassment.

(2) Any man who commits the offence specified in clause (i) or clause (ii) or clause (iii) of sub-section (1) shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both.

(3) Any man who commits the offence specified in clause (iv) of sub-section (1) shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

**354B. Assault or use of criminal force to woman with intent to disrobe.**—Any man who assaults or uses criminal force to any woman or abets such act with the intention of disrobing or compelling her to be naked, shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years, and shall also be liable to fine.

**354C. Voyeurism.**—Any man who watches, or captures the image of a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed either by the perpetrator or by any other person at the behest of the perpetrator or disseminates such image shall be punished on first conviction with imprisonment of either description for a term which shall not be less than one year, but which may extend to three years, and shall also be liable to fine, and be punished on a second or subsequent conviction, with imprisonment of either description for a term which shall not be less than three years, but which may extend to seven years, and shall also be liable to fine.

*Explanation 1.*—For the purpose of this section, “private act” includes an act of watching carried out in a place which, in the circumstances, would reasonably be expected to provide privacy and where the victim’s genitals, posterior or breasts are exposed or covered only in underwear; or the victim is using a lavatory; or the victim is doing a sexual act that is not of a kind ordinarily done in public.

*Explanation 2.*—Where the victim consents to the capture of the images or any act, but not to their dissemination to third persons and where such image or act is disseminated, such dissemination shall be considered an offence under this section.

**354D. Stalking.**—(1) Any man who—

- (i) follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or
  - (ii) monitors the use by a woman of the internet, email or any other form of electronic communication,
- commits the offence of stalking:

Provided that such conduct shall not amount to stalking if the man who pursued it proves that—

- (i) it was pursued for the purpose of preventing or detecting crime and the man accused of stalking had been entrusted with the responsibility of prevention and detection of crime by the State; or
- (ii) it was pursued under any law or to comply with any condition or requirement imposed by any person under any law; or
- (iii) in the particular circumstances such conduct was reasonable and justified.

(2) Whoever commits the offence of stalking shall be punished on first conviction with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and be punished on a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.]

#### **STATE AMENDMENT**

#### **Jammu and Kashmir and Ladakh (UTs)**

After section 354D, insert the following section, namely:-

**354E. Sextortion.**—(1) Whoever,—

- (a) being in a position of authority; or
- (b) being in a fiduciary relationship; or
- (c) being a public servant,

abuses such authority or fiduciary relationship or misuses his official position to employ physical or non physical forms of coercion to extort or demand sexual favours from any woman in exchange of some benefits or other favours that such person is empowered to grant or withhold, shall be guilty of offence of sextortion.

*Explanation.*—For the purpose of this section, ‘sexual favour’ shall mean and include any kind of unwanted sexual activity ranging from sexually suggestive conduct, sexually explicit actions such as touching, exposure of private body parts to sexual intercourse, including exposure over the electronic mode of communication.

(2) Any person who commits the offence of sextortion shall be punished with rigorous imprisonment for a term which shall not be less than three years but may extend to five years and with fine.

[Ins. by the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, *vide* notification No. S.O. 1123(E) dated (18-3-2020) and *vide* Union Territory of Ladakh Reorganisation (Adaptation of Central Laws) Order, 2020, notification No. S.O.3774(E), dated (23-10-2020).

**Chhattisgarh**

**After Section 354D of the Penal Code, the following shall be inserted, namely:—**

**354E. Liability person present who fails to prevent the commission of offence under Section 354, 354A, 354B, 354C, 354D.—**

Whoever, being present at the time of commission of an offence under section 354, section 354A, section 354B, section 354C or section 354D and being able to prevent such offence, fails to prevent the commission of such offence or not being in position to prevent the commission of such offence, fails to give information of the commission of such offence to the nearest magistrate or police officer, by any mode, with the intention of screening the offender from legal punishment, shall be liable for abetment of such offence and shall be punished with imprisonment of either description which may extend to three years or with fine or with both.]

[*Vide* Chhattisgarh Act 25 of 2015, s. 3]

**Arunachal Pradesh**

**Amendment of section 354.**—In section 354 of the principal Act, for the words “shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine” the words “shall be punished with imprisonment of either description for a term which shall not be less than two years but which may extend to seven years, and shall also be liable to fine” shall be substituted.

[*Vide* Arunachal Pradesh Act 3 of 2019, s. 5]

**Amendment of section 354B.**—In section 354B of the principal Act, for the words “shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine” the words “shall be punished on first conviction with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine; and be punished on a second or subsequent conviction with rigorous imprisonment for a term which shall not be less than seven years but which may extend to ten years with fine which shall not be less than one lakh rupees” shall be substituted.

[*Vide* Arunachal Pradesh Act 3 of 2019, s. 6]

**Amendment of section 354D.**—In section 354D of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:--

“(2) Whoever commits the offence of stalking shall be punished on first conviction with imprisonment of either description for a term which may extend to three years and shall also be liable to fine; and be punished on a second or subsequent conviction with imprisonment or either description for a

term which shall not be less than three years but which may extend to seven years and with fine which shall not be less than one lakh rupees:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of lesser period of imprisonment than specified minimum imprisonment.”.

[*Vide* Arunachal Pradesh Act 3 of 2019, s.7]

**355. Assault or criminal force with intent to dishonour person, otherwise than on grave provocation.**—Whoever assaults or uses criminal force to any person, intending thereby to dishonour that person, otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**356. Assault or criminal force in attempt to commit theft of property carried by a person.**—Whoever assaults or uses criminal force to any person, in attempting to commit theft on any property which that person is then wearing or carrying, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**357. Assault or criminal force in attempt wrongfully to confine a person.**—Whoever assaults or uses criminal force to any person, in attempting wrongfully to confine that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

**358. Assault or criminal force on grave provocation.**—Whoever assaults or uses criminal force to any person on grave and sudden provocation given by that person, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

*Explanation.*—The last section is subject to the same *Explanation* as section 352.

*Of Kidnapping, Abduction, Slavery and Forced Labour*

**359. Kidnapping.**—Kidnapping is of two kinds: kidnapping from <sup>1</sup>[India], and kidnapping from lawful guardianship.

**360. Kidnapping from India.**—Whoever conveys any person beyond the limits of <sup>1</sup>[India] without the consent of that person, or of some person legally authorised to consent on behalf of that person, is said to kidnap that person from <sup>1</sup>[India].

**361. Kidnapping from lawful guardianship.**—Whoever takes or entices any minor under <sup>2</sup>[sixteen] years of age if a male, or under <sup>3</sup>[eighteen] years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship.

*Explanation.*—The words “lawful guardian” in this section include any person lawfully entrusted with the care or custody of such minor or other person.

*Exception.*—This section does not extend to the act of any person who in good faith believes himself to be the father of an illegitimate child, or who in good faith believes himself to be entitled to the lawful custody of such child, unless such act is committed for an immoral or unlawful purpose.

**362. Abduction.**—Whoever by force compels, or by any deceitful means induces, any person to go from any place, is said to abduct that person.

**363. Punishment for kidnapping.**—Whoever kidnaps any person from <sup>1</sup>[India] or from lawful guardianship, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

<sup>4</sup>[**363A. Kidnapping or maiming a minor for purposes of begging.**—(1) Whoever kidnaps any minor or, not being the lawful guardian of a minor, obtains the custody of the minor, in order that such

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1. The words “British India” have successively been subs. by the A. O. 1948, the A. O. 1950 and Act 3 of 1951, s. 3 and the Sch., to read as above.

2. Subs. by Act 42 of 1949, s. 2, for “fourteen”.

3. Subs. by s. 2, *ibid.*, for “sixteen”.

4. Ins. by Act 52 of 1959, s. 2 (w.e.f. 15-1-1960).

minor may be employed or used for the purposes of begging shall be punishable with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

(2) Whoever maims any minor in order that such minor may be employed or used for the purposes of begging shall be punishable with imprisonment for life, and shall also be liable to fine.

(3) Where any person, not being the lawful guardian of a minor, employs or uses such minor for the purposes of begging, it shall be presumed, unless the contrary is proved, that he kidnapped or otherwise obtained the custody of that minor in order that the minor might be employed or used for the purposes of begging.

(4) In this section,—

(a) “begging” means—

(i) soliciting or receiving alms in a public place, whether under the pretence of singing, dancing, fortunetelling, performing tricks or selling articles or otherwise;

(ii) entering on any private premises for the purpose of soliciting or receiving alms;

(iii) exposing or exhibiting, with the object of obtaining or extorting alms, any sore, wound, injury, deformity or disease, whether of himself or of any other person or of an animal;

(iv) using a minor as an exhibit for the purpose of soliciting or receiving alms;

(b) “minor” means—

(i) in the case of a male, a person under sixteen years of age; and

(ii) in the case of a female, a person under eighteen years of age.]

**364. Kidnapping or abducting in order to murder.**—Whoever kidnaps or abducts any person in order that such person may be murdered or may be so disposed of as to be put in danger of being murdered, shall be punished with <sup>1</sup>[imprisonment for life] or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

#### *Illustrations*

(a) A kidnaps Z from <sup>2</sup>[India], intending or knowing it to be likely that Z may be sacrificed to an idol. A has committed the offence defined in this section.

(b) A forcibly carries or entices B away from his home in order that B may be murdered. A has committed the offence defined in this section.

<sup>3</sup>**[364A. Kidnapping for ransom, etc.]**—Whoever kidnaps or abducts any person or keeps a person in detention after such kidnapping or abduction, and threatens to cause death or hurt to such person, or by his conduct gives rise to a reasonable apprehension that such person may be put to death or hurt, or causes hurt or death to such person in order to compel the Government or <sup>4</sup>[any foreign State or international inter-governmental organisation or any other person] to do or abstain from doing any act or to pay a ransom, shall be punishable with death, or imprisonment for life, and shall also be liable to fine.]

**365. Kidnapping or abducting with intent secretly and wrongfully to confine person.**—Whoever kidnaps or abducts any person with intent to cause that person to be secretly and wrongfully confined, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**366. Kidnapping, abducting or inducing woman to compel her marriage, etc.**—Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also

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1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

2. The words “British India” have successively been subs. by the A. O. 1948, the A. O. 1950 and Act 3 of 1951, s. 3 and the Sch., to read as above.

3. Ins. by Act 42 of 1993, s. 2.

4. Subs. by Act 24 of 1995, s. 2, for “any other person”.

be liable to fine; <sup>1</sup>[and whoever, by means of criminal intimidation as defined in this Code or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall also be punishable as aforesaid].

<sup>2</sup>[**366A. Procurement of minor girl.**—Whoever, by any means whatsoever, induces any minor girl under the age of eighteen years to go from any place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years, and shall also be liable to fine.

**366B. Importation of girl from foreign country.**—Whoever imports into <sup>3</sup>[India] from any country outside India <sup>4</sup>[or from the State of Jammu and Kashmir] any girl under the age of twenty-one years with intent that she may be, or knowing it to be likely that she will be, forced or seduced to illicit intercourse with another person, <sup>5</sup>\*\*\*shall be punishable with imprisonment which may extend to ten years and shall also be liable to fine.]

**367. Kidnapping or abducting in order to subject person to grievous hurt, slavery, etc.**—Whoever kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected to grievous hurt, or slavery, or to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**368. Wrongfully concealing or keeping in confinement, kidnapped or abducted person.**—Whoever, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or confines such person, shall be punished in the same manner as if he had kidnapped or abducted such person with the same intention or knowledge, or for the same purpose as that with or for which he conceals or detains such person in confinement.

**369. Kidnapping or abducting child under ten years with intent to steal from its person.**—Whoever kidnaps or abducts any child under the age of ten years with the intention of taking dishonestly any movable property from the person of such child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

<sup>6</sup>[**370. Trafficking of person.**—(1) Whoever, for the purpose of exploitation, (a) recruits, (b) transports, (c) harbours, (d) transfers, or (e) receives, a person or persons, by—

*First.*—using threats, or

*Secondly.*—using force, or any other form of coercion, or

*Thirdly.*—by abduction, or

*Fourthly.*—by practising fraud, or deception, or

*Fifthly.*—by abuse of power, or

*Sixthly.*—by inducement, including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the person recruited, transported, harboured, transferred or received,

commits the offence of trafficking.

*Explanation 1.*—The expression "exploitation" shall include any act of physical exploitation or any form of sexual exploitation, slavery or practices similar to slavery, servitude, or the forced removal of organs.

*Explanation 2.*—The consent of the victim is immaterial in determination of the offence of trafficking.

(2) Whoever commits the offence of trafficking shall be punished with rigorous imprisonment for a term which shall not be less than seven years, but which may extend to ten years, and shall also be liable to fine.

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1. Ins. by Act 20 of 1923, s. 2.

2. Ins. by s. 3, *ibid.*

3. The words "British India" have successively been subs. by the A. O. 1948, the A. O. 1950 and Act 3 of 1951, s. 3 and the Sch., to read as above.

4. Ins. by Act 3 of 1951, s. 3 and the Sch., (w.e.f. 1-4-1951).

5. Certain words omitted by s. 3 and the Sch., *ibid.*

6. Subs. by Act 13 of 2013, s. 8, for section 370 (w.e.f. 3-2-2013).



(3) Where the offence involves the trafficking of more than one person, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, and shall also be liable to fine.

(4) Where the offence involves the trafficking of a minor, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine.

(5) Where the offence involves the trafficking of more than one minor, it shall be punishable with rigorous imprisonment for a term which shall not be less than fourteen years, but which may extend to imprisonment for life, and shall also be liable to fine.

(6) If a person is convicted of the offence of trafficking of minor on more than one occasion, then such person shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.

(7) When a public servant or a police officer is involved in the trafficking of any person then, such public servant or police officer shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.

**370A. Exploitation of a trafficked person.**—(1) Whoever, knowingly or having reason to believe that a minor has been trafficked, engages such minor for sexual exploitation in any manner, shall be punished with rigorous imprisonment for a term which shall not be less than five years, but which may extend to seven years, and shall also be liable to fine.

(2) Whoever, knowingly by or having reason to believe that a person has been trafficked, engages such person for sexual exploitation in any manner, shall be punished with rigorous imprisonment for a term which shall not be less than three years, but which may extend to five years, and shall also be liable to fine.]

**371. Habitual dealing in slaves.**—Whoever habitually imports, exports, removes, buys, sells, traffics or deals in slaves, shall be punished with <sup>1</sup>[imprisonment for life], or with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

**372. Selling minor for purposes of prostitution, etc.**—Whoever sells, lets to hire, or otherwise disposes of any <sup>2</sup>[person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be] employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

<sup>3</sup>[*Explanation I.*—When a female under the age of eighteen years is sold, let for hire, or otherwise disposed of to a prostitute or to any person who keeps or manages a brothel, the person so disposing of such female shall, until the contrary is proved, be presumed to have disposed of her with the intent that she shall be used for the purpose of prostitution.

*Explanation II.*—For the purposes of this section “illicit intercourse” means sexual intercourse between persons not united by marriage or by any union or tie which, though not amounting to a marriage, is recognised by the personal law or custom of the community to which they belong or, where they belong to different communities, of both such communities, as constituting between them a *quasi-marital* relation.]

**373. Buying minor for purposes of prostitution, etc.**—Whoever buys, hires or otherwise obtains possession of any <sup>4</sup>[person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be] employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

<sup>5</sup>[*Explanation I.*—Any prostitute or any person keeping or managing a brothel, who buys, hires or otherwise obtains possession of a female under the age of eighteen years shall, until the contrary is proved, be presumed to have obtained possession of such female with the intent that she shall be used for the purpose of prostitution.

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1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

2. Subs. by Act 18 of 1924, s. 2, for certain words.

3. Ins. by Act 18 of 1924, s. 3

4. Subs. by s. 2, *ibid.*, for certain words.

5. Ins. by s. 4, *ibid.*

*Explanation II.*—“Illicit intercourse” has the same meaning as in section 372.]

**374. Unlawful compulsory labour.**—Whoever unlawfully compels any person to labour against the will of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

<sup>1</sup>[*Sexual offences*]

<sup>2</sup>[**375. Rape.**—A man is said to commit “rape” if he—

(a) penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or

(b) inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or

(c) manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or

(d) applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person,

under the circumstances falling under any of the following seven descriptions:—

*First.*—Against her will.

*Secondly.*—Without her consent.

*Thirdly.*—With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.

*Fourthly.*—With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

*Fifthly.*—With her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

*Sixthly.*—With or without her consent, when she is under eighteen years of age.

*Seventhly.*—When she is unable to communicate consent.

*Explanation 1.*—For the purposes of this section, “vagina” shall also include *labia majora*.

*Explanation 2.*—Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act:

Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.

*Exception 1.*—A medical procedure or intervention shall not constitute rape.

*Exception 2.*—Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape.

**376. Punishment for rape.**—(1) Whoever, except in the cases provided for in sub-section (2), commits rape, shall be punished with rigorous imprisonment of either description for a term which <sup>3</sup>[shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine].

(2) Whoever,—

(a) being a police officer, commits rape—

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1. Subs. by Act 43 of 1983, s. 3, for the heading “*Of rape*” and ss. 375 and 376.

2. Subs. by Act 13 of 2013, s. 9, for sections 375, 376, 376A, 376B, 376C and 376D (w.e.f. 03-02-2013).

3. Subs. by Act 22 of 2018, s. 4, for “shall not be less than seven years, but which may extend to imprisonment for life, and shall also be liable to fine” (w.e.f. 21-4-2018).



Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this sub-section shall be paid to the victim.]

<sup>1</sup>[**376A. Punishment for causing death or resulting in persistent vegetative state of victim.**—Whoever, commits an offence punishable under sub-section (1) or sub-section (2) of section 376 and in the course of such commission inflicts an injury which causes the death of the woman or causes the woman to be in a persistent vegetative state, shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, or with death.

#### STATE AMENDMENT

##### Arunachal Pradesh

**Insertion of section 376AA.—After section 376A of the principal act, the following section shall be inserted, namely:-**

**“376AA. Punishment for rape on a women up to twelve years of age.**—Whoever commits rape on a women up to twelve years of age shall be punished with death, or rigorous imprisonment for a term which shall not be less than fourteen years but which may extend to imprisonment for life which shall mean imprisonment for the remained of that person’s natural life, and shall also be liable to fine.”.

[Vide Arunachal Pradesh Act 3 of 2019, s. 8]

**Insertion of section 376DA.—After section 376D of the principal Act, the following section shall be inserted namely:--**

**“376D.Punishment for gang rape on a woman twelve years of age.**—Where a woman up to twelve years of age, is raped by one or more persons constituting a group of action in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with death, or rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life which shall mean imprisonment for the remainder of that person’s natural life, and shall also be liable to fine:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this section shall be paid to the victim.”.

[Vide Arunachal Pradesh Act 3 of 2019, s. 9]

<sup>2</sup>[**376AB.Punishment for rape on woman under twelve years of age.**—Whoever, commits rape on a woman under twelve years of age shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and with fine or with death:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this section shall be paid to the victim.]

<sup>1</sup>[**376B. Sexual intercourse by husband upon his wife during separation.**—Whoever has sexual intercourse with his own wife, who is living separately, whether under a decree of separation or otherwise, without her consent, shall be punished with imprisonment of either description for a term which shall not be less than two years but which may extend to seven years, and shall also be liable to fine.

*Explanation.*—In this section, “sexual intercourse” shall mean any of the acts mentioned in clauses (a) to (d) of section 375.

<sup>1</sup>[**376C. Sexual intercourse by a person in authority.**—Whoever, being—

(a) in a position of authority or in a fiduciary relationship; or

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1. Subs. by Act 13 of 2013, s. 9, for sections 375, 376, 376A, 376B, 376C and 376D (w.e.f. 03-02-2013).

2. Ins. by Act 22 of 2018, s. 5 (w.e.f. 21-4-2018).

(b) a public servant; or

(c) superintendent or manager of a jail, remand home or other place of custody established by or under any law for the time being in force, or a women's or children's institution; or

(d) on the management of a hospital or being on the staff of a hospital,

abuses such position or fiduciary relationship to induce or seduce any woman either in his custody or under his charge or present in the premises to have sexual intercourse with him, such sexual intercourse not amounting to the offence of rape, shall be punished with rigorous imprisonment of either description for a term which shall not be less than five years, but which may extend to ten years, and shall also be liable to fine.

*Explanation 1.*—In this section, “sexual intercourse” shall mean any of the acts mentioned in clauses (a) to (d) of section 375.

*Explanation 2.*—For the purposes of this section, *Explanation 1* to section 375 shall also be applicable.

*Explanation 3.*—“Superintendent”, in relation to a jail, remand home or other place of custody or a women's or children's institution, includes a person holding any other office in such jail, remand home, place or institution by virtue of which such person can exercise any authority or control over its inmates.

*Explanation 4.*—The expressions “hospital” and “women's or children's institution” shall respectively have the same meaning as in *Explanation* to sub-section (2) of section 376.]

<sup>1</sup>[**376D. Gang rape.**—Where a woman is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to life which shall mean imprisonment for the remainder of that person's natural life, and with fine:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this section shall be paid to the victim.]

<sup>2</sup>[**376DA. Punishment for gang rape on woman under sixteen years of age.**—Where a woman under sixteen years of age is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and with fine:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this section shall be paid to the victim.

<sup>2</sup>[**376DB. Punishment for gang rape on woman under twelve years of age.**—Where a woman under twelve years of age is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and with fine, or with death:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

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1. Subs. by Act 13 of 2013, s. 9, for sections 375, 376, 376A, 376B, 376C and 376D (w.e.f. 03-02-2013).

2. Ins. by Act 22 of 2018, s. 6 (w.e.f. 21-4-2018).

Provided further that any fine imposed under this section shall be paid to the victim.]

**376E. Punishment for repeat offenders.**—Whoever has been previously convicted of an offence punishable under section 376 or section 376A or <sup>1</sup>[section 376AB or section 376D or section 376DA or section 376DB,] and is subsequently convicted of an offence punishable under any of the said sections shall be punished with imprisonment for life which shall mean imprisonment for the remainder of that person's natural life, or with death.]]

## STATE AMENDMENT

### Chhattisgarh

After Section 376E of the Penal Code, the following shall be inserted, namely: —

**376F. Liability of person in-charge of workplace and others to give information about offence.**—Whoever, being person in-charge of any work place or any other person present at such place, having knowledge that an offence under section 376 or section 376D, is being committed at such place and being in a position to prevent commission of such offence fails so, to prevent such offence or to give information of the commission of such offence, to any magistrate or police officer, by any mode, with the intention of screening the offender from legal punishment, shall be liable to be punished for abetment of such offence with imprisonment of either description which may extend to three years and fine and no such person shall incur any liability for giving such information.

*Explanation:*—Work-place includes any mode of transport owned, hired or otherwise engaged by the person in-charge of the work place for the conveyance of the woman, who was subjected to such offence, to and from her residence to such work-place.

[Vide Chhattisgarh Act 25 of 2015, s. 5].

### *Of Unnatural Offences*

**377. Unnatural offences.**—Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with <sup>2</sup>[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

*Explanation.*—Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section.

## CHAPTER XVII

### OF OFFENCES AGAINST PROPERTY

#### *Of Theft*

**378. Theft.**—Whoever, intending to take dishonestly any movable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit theft.

*Explanation 1.*—A thing so long as it is attached to the earth, not being movable property, is not the subject of theft; but it becomes capable of being the subject of theft as soon as it is severed from the earth.

*Explanation 2.*—A moving effected by the same act which effects the severance may be a theft.

*Explanation 3.*—A person is said to cause a thing to move by removing an obstacle which prevented it from moving or by separating it from any other thing, as well as by actually moving it.

*Explanation 4.*—A person, who by any means causes an animal to move, is said to move that animal, and to move everything which, in consequence of the motion so caused, is moved by that animal.

*Explanation 5.*—The consent mentioned in the definition may be express or implied, and may be given either by the person in possession, or by any person having for that purpose authority either express or implied.

#### *Illustrations*

(a) A cuts down a tree on Z's ground, with the intention of dishonestly taking the tree out of Z's possession without Z's consent. Here, as soon as A has severed the tree in order to such taking, he has committed theft.

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1. Subs. by Act 22 of 2018, s. 7, for “section 376D” (w.e.f. 21-4-2018).

2. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

(b) A puts a bait for dogs in his pocket, and thus induces Z's dog to follow it. Here, if A's intention be dishonestly to take the dog out of Z's possession without Z's consent, A has committed theft as soon as Z's dog has begun to follow A.

(c) A meets a bullock carrying a box of treasure. He drives the bullock in a certain direction, in order that he may dishonestly take the treasure. As soon as the bullock begins to move, A has committed theft of the treasure.

(d) A being Z's servant, and entrusted by Z with the care of Z's plate, dishonestly runs away with the plate, without Z's consent. A has committed theft.

(e) Z, going on a journey, entrusts his plate to A, the keeper of a warehouse, till Z shall return. A carries the plate to a goldsmith and sells it. Here the plate was not in Z's possession. It could not therefore be taken out of Z's possession, and A has not committed theft, though he may have committed criminal breach of trust.

(f) A finds a ring belonging to Z on a table in the house which Z occupies. Here the ring is in Z's possession, and if A dishonestly removes it, A commits theft.

(g) A finds a ring lying on the highroad, not in the possession of any person. A, by taking it, commits no theft, though he may commit criminal misappropriation of property.

(h) A sees a ring belonging to Z lying on a table in Z's house. Not venturing to misappropriate the ring immediately for fear of search and detection, A hides the ring in a place where it is highly improbable that it will ever be found by Z, with the intention of taking the ring from the hiding place and selling it when the loss is forgotten. Here A, at the time of first moving the ring, commits theft.

(i) A delivers his watch to Z, a jeweller, to be regulated. Z carries it to his shop. A, not owing to the jeweller any debt for which the jeweller might lawfully detain the watch as a security, enters the shop openly, takes his watch by force out of Z's hand, and carries it away. Here A, though he may have committed criminal trespass and assault, has not committed theft, inasmuch as what he did was not done dishonestly.

(j) If A owes money to Z for repairing the watch, and if Z retains the watch lawfully as a security for the debt, and A takes the watch out of Z's possession, with the intention of depriving Z of the property as a security for his debt, he commits theft, inasmuch as he takes it dishonestly.

(k) Again, if A, having pawned his watch to Z, takes it out of Z's possession without Z's consent, not having paid what he borrowed on the watch, he commits theft, though the watch is his own property inasmuch as he takes it dishonestly.

(l) A takes an article belonging to Z out of Z's possession without Z's consent, with the intention of keeping it until he obtains money from Z as a reward for its restoration. Here A takes dishonestly; A has therefor committed theft.

(m) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent for the purpose merely of reading it, and with the intention of returning it. Here, it is probable that A may have conceived that he had Z's implied consent to use Z's book. If this was A's impression, A has not committed theft.

(n) A asks charity from Z's wife. She gives A money, food and clothes, which A knows to belong to Z her husband. Here it is probable that A may conceive that Z's wife is authorised to give away alms. If this was A's impression, A has not committed theft.

(o) A is the paramour of Z's wife. She gives a valuable property, which A knows to belong to her husband Z, and to be such property as she has not authority from Z to give. If A takes the property dishonestly, he commits theft.

(p) A, in good faith, believing property belonging to Z to be A's own property, takes that property out of B's possession. Here, as A does not take dishonestly, he does not commit theft.

**379. Punishment for theft.**—Whoever commits theft shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

## STATE AMENDMENT

### Gujarat.—

**In the Indian Penal Code, 1860 (XLV of 1860), after section 379, the following sections shall be inserted, namely:—**

**379A. Snatching.**—(1) Whoever, with the intention to commit theft, suddenly or quickly or forcibly seizes or secures or grabs or takes away from any person or from his physical possession any moveable property, and makes or attempts to make escape with such property, is said to commit snatching.

(2) Whoever attempts to commit snatching shall be punished with rigorous imprisonment for a term which shall not be less than five years but which may extend to ten years, and with fine which may extend to twenty-five thousand rupees.

(3) Whoever commits snatching shall be punished with rigorous imprisonment for a term which shall not be less than seven years but which may extend to ten years, and with fine which may extend to twenty-five thousand rupees.

(4) Whoever, after committing or attempting to commit snatching, causes hurt or wrongful restraint or fear of hurt, in order to effect his escape shall be punished with rigorous imprisonment for a term which may extend to three years, in addition to the punishment provided for the offence of snatching by the preceding sub-sections.

**379B. Snatching after preparation made for causing death, hurt or restraint in order to the committing of snatching.**—Whoever commits or attempts to commit snatching, having made preparation for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, to any person, in order to the committing of such snatching, or in order to the retaining of property taken by such snatching, shall be punished with rigorous imprisonment for a term which shall not be less than seven years but which may extend to ten years, and with fine which may extend to twenty-five thousand rupees.

[Vide Gujarat Act 6 of 2019, s. 2]

**380. Theft in dwelling house, etc.**—Whoever commits theft in any building, tent or vessel, which building, tent or vessel is used as a human dwelling, or used for the custody of property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**381. Theft by clerk or servant of property in possession of master.**—Whoever, being a clerk or servant, or being employed in the capacity of a clerk or servant, commits theft in respect of any property in the possession of his master or employer, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**382. Theft after preparation made for causing death, hurt or restraint in order to the committing of the theft.**—Whoever commits theft, having made preparation for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, to any person, in order to the committing of such theft, or in order to the effecting of his escape after the committing of such theft, or in order to the retaining of property taken by such theft, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

#### *Illustrations*

(a) A commits theft on property in Z's possession; and while committing this theft, he has a loaded pistol under his garment having provided this pistol for the purpose of hurting Z in case Z should resist. A has committed the offence defined in this section.

(b) A picks Z's pocket, having posted several of his companions near him, in order that they may restrain Z, if Z should perceive what is passing and should resist, or should attempt to apprehend A. A has committed the offence defined in this section.

### **STATE AMENDMENT**

#### **Tripura**

After the section 382 of the Indian Penal Code, the following new sections will be inserted:—

**“382A. Snatching:** Whoever commits theft stealthily from a person or through assault or by using criminal force and thereby causes hurt or endangers the life of that person is said to commit the offence of ‘Snatching’.

**382B.** Whoever commits ‘Snatching’ shall be punished with imprisonment for a term which shall not be less than seven years but may extend to a term of ten years or with fine or with both.

**382C. Vehicle lifting:** Whoever commits theft of a ‘vehicle’ either from open or close arena, is said to commit the offence of ‘vehicle lifting’.

**Note:**—The term ‘Vehicle’ shall have the same meaning as defined in sub-section 28 of section 2 of Motor Vehicles Act 1988;

**382D.** Whoever commits the offence of ‘vehicle lifting’ shall be punished with imprisonment for a term which shall not be less than seven years but may extend to a term of ten years or with fine or with both”.

**382E. Cattle lifting:** Whoever commits theft of a ‘Cattle’ either from open or close arena, is said to commit the offence of ‘Cattle lifting’.



**Note:-** For the purpose of this section, the term ‘Cattle’ means a cow and a calf, whether male or female, bull, bullock, buffalo-male or female or calf of she-buffalo, whether male or female and an ox or oxen.

**382F.** Whoever commits the offence of ‘Cattle lifting’ shall be punished with imprisonment for a term which shall not be less than seven years but may extend to a term of ten years or with fine or with both.”

[Vide Tripura Act 4 of 2019, s. 2]

#### *Of Extortion*

**383. Extortion.**—Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property, or valuable security or anything signed or sealed which may be converted into a valuable security, commits “extortion”.

#### *Illustrations*

(a) A threatens to publish a defamatory libel concerning Z unless Z gives him money. He thus induces Z to give him money. A has committed extortion.

(b) A threatens Z that he will keep Z’s child in wrongful confinement, unless Z will sign and deliver to A a promissory note binding Z to pay certain monies to A. Z signs and delivers the note. A has committed extortion.

(c) A threatens to send club-men to plough up Z’s field unless Z will sign and deliver to B a bond binding Z under a penalty to deliver certain produce to B, and thereby induces Z to sign and deliver the bond. A has committed extortion.

(d) A, by putting Z in fear of grievous hurt, dishonestly induces Z to sign or affix his seal to a blank paper and deliver it to A. Z signs and delivers the paper to A. Here, as the paper so signed may be converted into a valuable security. A has committed extortion.

**384. Punishment for extortion.**—Whoever commits extortion shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**385. Putting person in fear of injury in order to commit extortion.**—Whoever, in order to the committing of extortion, puts any person in fear, or attempts to put any person in fear, of any injury, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**386. Extortion by putting a person in fear of death or grievous hurt.**—Whoever commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**387. Putting person in fear of death or of grievous hurt, in order to commit extortion.**—Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**388. Extortion by threat of accusation of an offence punishable with death or imprisonment for life, etc.**—Whoever commits extortion by putting any person in fear of an accusation against that person or any other, of having committed or attempted to commit any offence punishable with death, or with <sup>1</sup>[imprisonment for life], or with imprisonment for a term which may extend to ten years, or of having attempted to induce any other person to commit such offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if the offence be one punishable under section 377 of this Code, may be punished with <sup>1</sup>[imprisonment for life].

**389. Putting person in fear or accusation of offence, in order to commit extortion.**—Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of an accusation, against that person or any other, of having committed, or attempted to commit, an offence punishable with death or with <sup>1</sup>[imprisonment for life], or with imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if the offence be punishable under section 377 of this Code, may be punished with <sup>1</sup>[imprisonment for life].

#### *Of Robbery and dacoity*

**390. Robbery.**—In all robbery there is either theft or extortion.

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1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

**When theft is robbery.**—Theft is “robbery” if, in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft, the offender, for that end voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint, or fear of instant death or of instant hurt, or of instant wrongful restraint.

**When extortion is robbery.**—Extortion is “robbery” if the offender, at the time of committing the extortion, is in the presence of the person put in fear, and commits the extortion by putting that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person or to some other person, and, by so putting in fear, induces the person so put in fear then and there to deliver up the thing extorted.

*Explanation.*—The offender is said to be present if he is sufficiently near to put the other person in fear of instant death, of instant hurt, or of instant wrongful restraint.

#### *Illustrations*

(a) A holds Z down, and fraudulently takes Z's money and jewels from Z's clothes, without Z's consent. Here A has committed theft, and, in order to the committing of that theft, has voluntarily caused wrongful restraint to Z. A has therefore committed robbery.

(b) A meets Z on the high road, shows a pistol, and demands Z's purse. Z, in consequence, surrenders his purse. Here A has extorted the purse from Z by putting him in fear of instant hurt, and being at the time of committing the extortion in his presence. A has therefore committed robbery.

(c) A meets Z and Z's child on the high road. A takes the child, and threatens to fling it down a precipice, unless Z delivers his purse. Z, in consequence, delivers his purse. Here A has extorted the purse from Z, by causing Z to be in fear of instant hurt to the child who is there present. A has therefore committed robbery on Z.

(d) A obtains property from Z by saying “Your child is in the hands of my gang, and will be put to death unless you send us ten thousand rupees”. This is extortion, and punishable as such: but it is not robbery, unless Z is put in fear of the instant death of his child.

**391. Dacoity.**—When five or more persons conjointly commit or attempt to commit a robbery, or where the whole number of persons conjointly committing or attempting to commit a robbery, and persons present and aiding such commission or attempt, amount to five or more, every person so committing, attempting or aiding, is said to commit “dacoity”.

**392. Punishment for robbery.**—Whoever commits robbery shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and, if the robbery be committed on the highway between sunset and sunrise, the imprisonment may be extended to fourteen years.

**393. Attempt to commit robbery.**—Whoever attempts to commit robbery shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

**394. Voluntarily causing hurt in committing robbery.**—If any person, in committing or in attempting to commit robbery, voluntarily causes hurt, such person, and any other person jointly concerned in committing or attempting to commit such robbery, shall be punished with <sup>1</sup>[imprisonment for life], or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

**395. Punishment for dacoity.**—Whoever commits dacoity shall be punished with <sup>1</sup>[imprisonment for life], or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

**396. Dacoity with murder.**—If any one of five or more persons, who are conjointly committing dacoity, commits murder in so committing dacoity, every one of those persons shall be punished with death, or <sup>1</sup>[imprisonment for life], or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

**397. Robbery, or dacoity, with attempt to cause death or grievous hurt.**—If, at the time of committing robbery or dacoity, the offender uses any deadly weapon, or causes grievous hurt to any

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1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

person, or attempts to cause death or grievous hurt to any person, the imprisonment with which such offender shall be punished shall not be less than seven years.

**398. Attempt to commit robbery or dacoity when armed with deadly weapon.**—If, at the time of attempting to commit robbery or dacoity, the offender is armed with any deadly weapon, the imprisonment with which such offender shall be punished shall not be less than seven years.

**399. Making preparation to commit dacoity.**—Whoever makes any preparation for committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

**400. Punishment for belonging to gang of dacoits.**—Whoever, at any time after the passing of this Act, shall belong to a gang of persons associated for the purpose of habitually committing dacoity, shall be punished with <sup>1</sup>[imprisonment for life], or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

**401. Punishment for belonging to gang of thieves.**—Whoever, at any time after the passing of this Act, shall belong to any wandering or other gang of persons associated for the purpose of habitually committing theft or robbery, and not being a gang of *thugs* or dacoits, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

**402. Assembling for purpose of committing dacoity.**—Whoever, at any time after the passing of this Act, shall be one of five or more persons assembled for the purpose of committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

#### *Of criminal misappropriation of property*

**403. Dishonest misappropriation of property.**—Whoever dishonestly misappropriates or converts to his own use any movable property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

#### *Illustrations*

(a) A takes property belonging to Z out of Z's possession, in good faith believing at the time when he takes it, that the property belongs to himself. A is not guilty of theft; but if A, after discovering his mistake, dishonestly appropriates the property to his own use, he is guilty of an offence under this section.

(b) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent. Here, if A was under the impression that he had Z's implied consent to take the book for the purpose of reading it, A has not committed theft. But, if A afterwards sells the book for his own benefit, he is guilty of an offence under this section.

(c) A and B, being, joint owners of a horse, A takes the horse out of B's possession, intending to use it. Here, as A has a right to use the horse, he does not dishonestly misappropriate it. But, if A sells the horse and appropriates the whole proceeds to his own use, he is guilty of an offence under this section.

*Explanation 1.*—A dishonest misappropriation for a time only is a misappropriation within the meaning of this section.

#### *Illustration*

A finds a Government promissory note belonging to Z, bearing a blank endorsement. A, knowing that the note belongs to Z, pledges it with a banker as a security or a loan, intending at a future time to restore it to Z. A has committed an offence under this section.

*Explanation 2.*—A person who finds property not in the possession of any other person, and takes such property for the purpose of protecting it for, or of restoring it to, the owner, does not take or misappropriate it dishonestly, and is not guilty of an offence; but he is guilty of the offence above defined, if he appropriates it to his own use, when he knows or has the means of discovering the owner, or before he has used reasonable means to discover and give notice to the owner and has kept the property a reasonable time to enable the owner to claim it.

What are reasonable means or what is a reasonable time in such a case, is a question of fact.

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1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

It is not necessary that the finder should know who is the owner of the property, or that any particular person is the owner of it; it is sufficient if, at the time of appropriating it, he does not believe it to be his own property, or in good faith believe that the real owner cannot be found.

#### *Illustrations*

(a) A finds a rupee on the high road, not knowing to whom the rupee belongs, A picks up the rupee. Here A has not committed the offence defined in this section.

(b) A finds a letter on the road, containing a bank note. From the direction and contents of the letter he learns to whom the note belongs. He appropriates the note. He is guilty of an offence under this section.

(c) A finds a cheque payable to bearer. He can form no conjecture as to the person who has lost the cheque. But the name of the person, who has drawn the cheque, appears. A knows that this person can direct him to the person in whose favour the cheque was drawn. A appropriates the cheque without attempting to discover the owner. He is guilty of an offence under this section.

(d) A sees Z drop his purse with money in it. A picks up the purse with the intention of restoring it to Z, but afterwards appropriates it to his own use. A has committed an offence under this section.

(e) A finds a purse with money, not knowing to whom it belongs; he afterwards discovers that it belongs to Z, and appropriates it to his own use. A is guilty of an offence under this section.

(f) A finds a valuable ring, not knowing to whom it belongs. A sells it immediately without attempting to discover the owner. A is guilty of an offence under this section.

**404. Dishonest misappropriation of property possessed by deceased person at the time of his death.**—Whoever dishonestly misappropriates or converts to his own use property, knowing that such property was in the possession of a deceased person at the time of that person's decease, and has not since been in the possession of any person legally entitled to such possession, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine, and if the offender at the time of such person's decease was employed by him as a clerk or servant, the imprisonment may extend to seven years.

#### *Illustration*

Z dies in possession of furniture and money. His servant A, before the money comes into the possession of any person entitled to such possession, dishonestly misappropriates it. A has committed the offence defined in this section.

#### *Of criminal breach of trust*

**405. Criminal breach of trust.**—Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits “criminal breach of trust”.

<sup>1</sup>[<sup>2</sup>*Explanation 1*.—A person, being an employer <sup>3</sup>[of an establishment whether exempted under section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) or not] who deducts the employee's contribution from the wages payable to the employee for credit to a Provident Fund or Family Pension Fund established by any law for the time being in force, shall be deemed to have been entrusted with the amount of the contribution so deducted by him and if he makes default in the payment of such contribution to the said Fund in violation of the said law, shall be deemed to have dishonestly used the amount of the said contribution in violation of a direction of law as aforesaid.]

<sup>4</sup>[*Explanation 2*.—A person, being an employer, who deducts the employees' contribution from the wages payable to the employee for credit to the Employees' State Insurance Fund held and administered by the Employees' State Insurance Corporation established under the Employees' State Insurance Act, 1948 (34 of 1948), shall be deemed to have been entrusted with the amount of the contribution so deducted by him and if he makes default in the payment of such contribution to the said Fund in violation of the said Act, shall be deemed to have dishonestly used the amount of the said contribution in violation of a direction of law as aforesaid.]

#### *Illustrations*

(a) A, being executor to the will of a deceased person, dishonestly disobeys the law which directs him to divide the effects according to the will, and appropriates them to his own use. A has committed criminal breach of trust.

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1. Ins. by Act 40 of 1973, s. 9 (w.e.f. 1-11-1973).

2. *Explanation* numbered as *Explanation 1* by Act 38 of 1975, s. 9 (w.e.f. 1-9-1975).

3. Ins. by Act 33 of 1988, s. 27 (w.e.f. 1-8-1988).

4. Ins. by Act 38 of 1975, s. 9 (w.e.f. 1-9-1975).

(b) A is a warehouse-keeper. Z going on a journey, entrusts his furniture to A, under a contract that it shall be returned on payment of a stipulated sum for warehouse room. A dishonestly sells the goods. A has committed criminal breach of trust.

(c) A, residing in Calcutta, is agent for Z, residing at Delhi. There is an express or implied contract between A and Z, that all sums remitted by Z to A shall be invested by A, according to Z's direction. Z remits a lakh of rupees to A, with directions to A to invest the same in Company's paper. A dishonestly disobeys the directions and employs the money in his own business. A has committed criminal breach of trust.

(d) But if A, in the last illustration, not dishonestly but in good faith, believing that it will be more for Z's advantage to hold shares in the Bank of Bengal, disobeys Z's directions, and buys shares in the Bank of Bengal, for Z, instead of buying Company's paper, here, thought Z should suffer loss, and should be entitled to bring a civil action against A, on account of that loss, yet A, not having acted dishonestly, has not committed criminal breach of trust.

(e) A, a revenue-officer, is entrusted with public money and is either directed by law, or bound by a contract, express or implied, with the Government, to pay into a certain treasury all the public money which he holds. A dishonestly appropriates the money. A has committed criminal breach of trust.

(f) A, a carrier, is entrusted by Z with property to be carried by land or by water. A dishonestly misappropriates the property. A has committed criminal breach of trust.

**406. Punishment for criminal breach of trust.**—Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**407. Criminal breach of trust by carrier, etc.**—Whoever, being entrusted with property as a carrier, wharfinger or warehouse-keeper, commits criminal breach of trust in respect of such property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**408. Criminal breach of trust by clerk or servant.**—Whoever, being a clerk or servant or employed as a clerk or servant, and being in any manner entrusted in such capacity with property, or with any dominion over property, commits criminal breach of trust in respect of that property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**409. Criminal breach of trust by public servant, or by banker, merchant or agent.**—Whoever, being in any manner entrusted with property, or with any dominion over property in his capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney or agent, commits criminal breach of trust in respect of that property, shall be punished with <sup>1</sup>[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

#### *Of the receiving of stolen property*

**410. Stolen property.**—Property, the possession whereof has been transferred by theft, or by extortion, or by robbery, and property which has been criminally misappropriated or in respect of which <sup>2</sup>\*\*\*<sup>3</sup>\*\*\*criminal breach of trust has been committed, is designated as “stolen property”, <sup>4</sup>[whether the transfer has been made, or the misappropriation or breach of trust has been committed, within or without <sup>5</sup>[India]]. But, if such property subsequently comes into the possession of a person legally entitled to the possession thereof, it then ceases to be stolen property.

**411. Dishonestly receiving stolen property.**—Whoever dishonestly receives or retains any stolen property, knowing or having reason to believe the same to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**412. Dishonestly receiving property stolen in the commission of a dacoity.**—Whoever dishonestly receives or retains any stolen property, the possession whereof he knows or has reason to believe to have been transferred by the commission of dacoity, or dishonestly receives from a person, whom he knows or has reason to believe to belong or to have belonged to a gang of dacoits, property which he knows or has

1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

2. The word “the” rep by Act 12 of 1891, s. 2 and the First Sch.

3. The words “offence of” rep. by Act 8 of 1882, s. 9.

4. Ins. by s. 9, *ibid*.

5. The words “British India” have successively been subs. by the A. O. 1948, the A. O. 1950 and Act 3 of 1951, s. 3 and the Sch., to read as above (w.e.f. 1-4-1951).

reason to believe to have been stolen, shall be punished with <sup>1</sup>[imprisonment for life], or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

**413. Habitually dealing in stolen property.**—Whoever habitually receives or deals in property which he knows or has reason to believe to be stolen property, shall be punished with <sup>1</sup>[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**414. Assisting in concealment of stolen property.**—Whoever voluntarily assists in concealing or disposing of or making away with property which he knows or has reason to believe to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

#### *Of Cheating*

**415. Cheating.**—Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to “cheat”.

*Explanation.*—A dishonest concealment of facts is a deception within the meaning of this section.

#### *Illustrations*

(a) A, by falsely pretending to be in the Civil Service, intentionally deceives Z, and thus dishonestly induces Z to let him have on credit goods for which he does not mean to pay. A cheats.

(b) A, by putting a counterfeit mark on an article, intentionally deceives Z into a belief that this article was made by a certain celebrated manufacturer, and thus dishonestly induces Z to buy and pay for the article. A cheats.

(c) A, by exhibiting to Z a false sample of an article intentionally deceives Z into believing that the article corresponds with the sample, and thereby dishonestly induces Z to buy and pay for the article. A cheats.

(d) A, by tendering in payment for an article a bill on a house with which A keeps no money, and by which A expects that the bill will be dishonoured, intentionally deceives Z, and thereby dishonestly induces Z to deliver the article, intending not to pay for it. A cheats.

(e) A, by pledging as diamond articles which he knows are not diamonds, intentionally deceives Z, and thereby dishonestly induces Z to lend money. A cheats.

(f) A intentionally deceives Z into a belief that A means to repay any money that Z may lend to him and thereby dishonestly induces Z to lend him money, A not intending to repay it. A cheats.

(g) A intentionally deceives Z into a belief that A means to deliver to Z a certain quantity of indigo plant which he does not intend to deliver, and thereby dishonestly induces Z to advance money upon the faith of such delivery. A cheats; but if A, at the time of obtaining the money, intends to deliver the indigo plant, and afterwards breaks his contract and does not deliver it, he does not cheat, but is liable only to a civil action for breach of contract.

(h) A intentionally deceives Z into a belief that A has performed A's part of a contract made with Z, which he has not performed, and thereby dishonestly induces Z to pay money. A cheats.

(i) A sells and conveys an estate to B. A, knowing that in consequence of such sale he has no right to the property, sells or mortgages the same to Z, without disclosing the fact of the previous sale and conveyance to B, and receives the purchase or mortgage money from Z. A cheats.

**416. Cheating by personation.**—A person is said to “cheat by personation” if he cheats by pretending to be some other person, or by knowingly substituting one person for or another, or representing that he or any other person is a person other than he or such other person really is.

*Explanation.*—The offence is committed whether the individual personated is a real or imaginary person.

#### *Illustrations*

(a) A cheats by pretending to be a certain rich banker of the same name. A cheats by personation.

(b) A cheats by pretending to be B, a person who is deceased. A cheats by personation.

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1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

**417. Punishment for cheating.**—Whoever cheats shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

**418. Cheating with knowledge that wrongful loss may ensue to person whose interest offender is bound to protect.**—Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person whose interest in the transaction to which the cheating relates, he was bound, either by law, or by a legal contract, to protect, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**419. Punishment for cheating by personation.**—Whoever cheats by personation shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**420. Cheating and dishonestly inducing delivery of property.**—Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

*Of fraudulent feeds and dispositions of property*

**421. Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.**—Whoever dishonestly or fraudulently removes, conceals or delivers to any person, or transfers or causes to be transferred to any person, without adequate consideration, any property, intending thereby to prevent, or knowing it to be likely that he will thereby prevent, the distribution of that property according to law among his creditors or the creditors of any other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**422. Dishonestly or fraudulently preventing debt being available for creditors.**—Whoever dishonestly or fraudulently prevents any debt or demand due to himself or to any other person from being made available according to law for payment of his debts or the debts of such other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**423. Dishonest or fraudulent execution of deed of transfer containing false statement of consideration.**—Whoever dishonestly or fraudulently signs, executes or becomes a party to any deed or instrument which purports to transfer or subject to any charge any property, or any interest therein, and which contains any false statement relating to the consideration for such transfer or charge, or relating to the person or persons for whose use or benefit it is really intended to operate, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**424. Dishonest or fraudulent removal or concealment of property.**—Whoever dishonestly or fraudulently conceals or removes any property of himself or any other person, or dishonestly or fraudulently assists in the concealment or removal thereof, or dishonestly releases any demand or claim to which he is entitled, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

*Of mischief*

**425. Mischief.**—Whoever with intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the public or to any person, causes the destruction of any property, or any such change in any property or in the situation thereof as destroys or diminishes its value or utility, or affects it injuriously, commits “mischief”.

*Explanation 1.*—It is not essential to the offence of mischief that the offender should intend to cause loss or damage to the owner of the property injured or destroyed. It is sufficient if he intends to cause, or knows that he is likely to cause, wrongful loss or damage to any person by injuring any property, whether it belongs to that person or not.

*Explanation 2.*—Mischief may be committed by an act affecting property belonging to the person who commits the act, or to that person and others jointly.

### *Illustrations*

- (a) A voluntarily burns a valuable security belonging to Z intending to cause wrongful loss to Z. A has committed mischief.
- (b) A introduces water in to an ice-house belonging to Z and thus causes the ice to melt, intending wrongful loss to Z. A has committed mischief.
- (c) A voluntarily throws into a river a ring belonging to Z, with the intention of thereby causing wrongful loss to Z. A has committed mischief.
- (d) A, knowing that his effects are about to be taken in execution in order to satisfy a debt due from him to Z, destroys those effects, with the intention of thereby preventing Z from obtaining satisfaction of the debt, and of thus causing damage to Z. A has committed mischief.
- (e) A having insured a ship, voluntarily causes the same to be cast away, with the intention of causing damage to the underwriters. A has committed mischief.
- (f) A causes a ship to be cast away, intending thereby to cause damage to Z who has lent money on bottomry on the ship. A has committed mischief.
- (g) A, having joint property with Z in a horse, shoots the horse, intending thereby to cause wrongful loss to Z. A has committed mischief.
- (h) A causes cattle to enter upon a field belonging to Z, intending to cause and knowing that he is likely to cause damage to Z's crop. A has committed mischief.

**426. Punishment for mischief.**—Whoever commits mischief shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

**427. Mischief causing damage to the amount of fifty rupees.**—Whoever commits mischief and thereby causes loss or damage to the amount of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**428. Mischief by killing or maiming animal of the value of ten rupees.**—Whoever commits mischief by killing, poisoning, maiming or rendering useless any animal or animals of the value of the ten rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**429. Mischief by killing or maiming cattle, etc., of any value or any animal of the value of fifty rupees.**—Whoever commits mischief by killing, poisoning, maiming or rendering useless, any elephant, camel, horse, mule, buffalo, bull, cow or ox, whatever may be the value thereof, or any other animal of the value of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

**430. Mischief by injury to works of irrigation or by wrongfully diverting water.**—Whoever commits mischief by doing any act which causes, or which he knows to be likely to cause, a diminution of the supply of water for agricultural purposes, or for food or drink for human beings or for animals which are property, or for cleanliness or for carrying on any manufacture, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

**431. Mischief by injury to public road, bridge, river or channel.**—Whoever commits mischief by doing any act which renders or which he knows to be likely to render any public road, bridge, navigable river or navigable channel, natural or artificial, impassable or less safe for travelling or conveying property, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

**432. Mischief by causing inundation or obstruction to public drainage attended with damage.**—Whoever commits mischief by doing any act which causes or which he knows to be likely to cause an inundation or an obstruction to any public drainage attended with injury or damage, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

**433. Mischief by destroying, moving or rendering less useful a light-house or sea-mark.**—Whoever commits mischief by destroying or moving any light-house or other light used as a sea-mark, or any sea-mark or buoy or other thing placed as a guide for navigators, or by any act which renders any such light-house, sea-mark, buoy or other such thing as aforesaid less useful as a guide for navigators, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.



**434. Mischief by destroying or moving, etc., a land-mark fixed by public authority.**—Whoever commits mischief by destroying or moving any land-mark fixed by the authority of a public servant, or by any act which renders such land-mark less useful as such, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

**435. Mischief by fire or explosive substance with intent to cause damage to amount of one hundred or (in case of agricultural produce) ten rupees.**—Whoever commits mischief by fire or any explosive substance intending to cause, or knowing it to be likely that he will thereby cause, damage to any property to the amount of one hundred rupees or upwards <sup>1</sup>[or (where the property is agricultural produce) ten rupees or upwards], shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine.

**436. Mischief by fire or explosive substance with intent to destroy house, etc.**—Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, the destruction of any building which is ordinarily used as a place of worship or as a human dwelling or as a place for the custody of property, shall be punished with <sup>2</sup>[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**437. Mischief with intent to destroy or make unsafe a decked vessel or one of twenty tons burden.**—Whoever commits mischief to any decked vessel or any vessel of a burden of twenty tons or upwards, intending to destroy or render unsafe, or knowing it to be likely that he will thereby destroy or render unsafe, that vessel, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**438. Punishment for the mischief described in section 437 committed by fire or explosive substance.**—Whoever commits, or attempts to commit, by fire or any explosive substance, such mischief as is described in the last preceding section, shall be punished with <sup>2</sup>[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**439. Punishment for intentionally running vessel aground or ashore with intent to commit theft, etc.**—Whoever intentionally runs any vessel aground or ashore, intending to commit theft of any property contained therein or to dishonestly misappropriate any such property, or with intent that such theft or misappropriation of property may be committed, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**440. Mischief committed after preparation made for causing death or hurt.**—Whoever commits mischief, having made preparation for causing to any person death, or hurt, or wrongful restraint, or fear of death, or of hurt, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

#### *Of criminal trespass*

**441. Criminal trespass.**—Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property, or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence, is said to commit “criminal trespass”.

#### **STATE AMENDMENT**

##### **Orissa**

**Amendment of section 441.**—In the Indian Penal Code, 1860 (45 of 1860), for section 441, the following section shall be substituted, namely:—

**“441.Criminal trespass.**—Whoever enters into or upon property in possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property,

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1. Ins. by Act 8 of 1882, s. 10

2. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation forlife” (w.e.f. 1-1-1956).

Or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person or with intent to commit an offence.

Or having lawfully entered into or upon such property, remains there with the intention of taking unauthorized possession or making unauthorized use of such property and fails to withdraw from such property or its possession or use, when called upon to do so by that another person by notice in writing, duly served on him,

Is said to commit criminal trespass.”

[Vide Orissa Act 22 of 1986, s. 2]

**442. House-trespass.**—Whoever commits criminal trespass by entering into or remaining in any building, tent or vessel used as a human dwelling or any building used as a place for worship, or as a place for the custody of property, is said to commit “house-trespass”.

*Explanation.*—The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house-trespass.

**443. Lurking house-trespass.**—Whoever commits house-trespass having taken precautions to conceal such house-trespass from some person who has a right to exclude or eject the trespasser from the building, tent or vessel which is the subject of the trespass, is said to commit “lurking house-trespass”.

**444. Lurking house-trespass by night.**—Whoever commits lurking house-trespass after sunset and before sunrise, is said to commit “lurking house-trespass by night”.

**445. House-breaking.**—A person is said to commit “house-breaking” who commits house-trespass if he effects his entrance into the house or any part of it in any of the six ways hereinafter described; or if, being in the house or any part of it for the purpose of committing an offence, or having committed an offence therein, he quits the house or any part of it in any of such six ways, that is to say:—

*First.*—If he enters or quits through a passage made by himself, or by any abettor of the house-trespass, in order to the committing of the house-trespass.

*Secondly.*—If he enters or quits through any passage not intended by any person, other than himself or an abettor of the offence, for human entrance; or through any passage to which he has obtained access by scaling or climbing over any wall or building.

*Thirdly.*—If he enters or quits through any passage which he or any abettor of the house-trespass has opened, in order to the committing of the house-trespass by any means by which that passage was not intended by the occupier of the house to be opened.

*Fourthly.*—If he enters or quits by opening any lock in order to the committing of the house-trespass, or in order to the quitting of the house after a house-trespass.

*Fifthly.*—If he effects his entrance or departure by using criminal force or committing an assault, or by threatening any person with assault.

*Sixthly.*—If he enters or quits by any passage which he knows to have been fastened against such entrance or departure, and to have been unfastened by himself or by an abettor of the house-trespass.

*Explanation.*—Any out-house or building occupied with a house, and between which and such house there is an immediate internal communication, is part of the house within the meaning of this section.

#### *Illustrations*

(a) A commits house-trespass by making a hole through the wall of Z's house, and putting his hand through the aperture. This is house-breaking.

(b) A commits house-trespass by creeping into a ship at a port-hole between decks. This is house-breaking.

(c) A commits house-trespass by entering Z's house through a window. This is house-breaking.

(d) A commits house-trespass by entering Z's house through the door, having opened a door which was fastened. This is house-breaking.

(e) A commits house-trespass by entering Z's house through the door, having lifted a latch by putting a wire through a hole in the door. This is house-breaking.

(f) A finds the key of Z's house door, which Z had lost, and commits house-trespass by entering Z's house, having opened the door with that key. This is house-breaking.

(g) Z is standing in his doorway. A forces a passage by knocking Z down, and commits house-trespass by entering the house. This is house-breaking.

(h) Z, the door-keeper of Y, is standing in Y's doorway. A commits house-trespass by entering the house, having deterred Z from opposing him by threatening to beat him. This is house-breaking.

**446. House-breaking by night.**—Whoever commits house-breaking after sunset and before sunrise, is said to commit “house-breaking by night”.

**447. Punishment for criminal trespass.**—Whoever commits criminal trespass shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

**448. Punishment for house-trespass.**—Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

**449. House-trespass in order to commit offence punishable with death.**—Whoever commits house-trespass in order to the committing of any offence punishable with death, shall be punished with <sup>1</sup>[imprisonment for life], or with rigorous imprisonment for a term not exceeding ten years, and shall also be liable to fine.

**450. House-trespass in order to commit offence punishable with imprisonment for life.**—Whoever commits house-trespass in order to the committing of any offence punishable with <sup>1</sup>[imprisonment for life], shall be punished with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

**451. House-trespass in order to commit offence punishable with imprisonment.**—Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to seven years.

**452. House-trespass alter preparation for hurt, assault or wrongful restraint.**—Whoever commits house-trespass, having made preparation for causing hurt to any person or for assaulting any person, or for wrongfully restraining any person, or for putting and person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**453. Punishment for lurking house-trespass or house-breaking.**—Whoever commits lurking house-trespass or house-breaking, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

**454. Lurking house-trespass or house-breaking in order to commit offence punishable with imprisonment.**—Whoever commits lurking house-trespass or house-breaking, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to ten years.

**455. Lurking house-trespass or house-breaking after preparation for hurt, assault or wrongful restraint.**—Whoever commits lurking house-trespass, or house-breaking, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault or of wrongful restraint, shall be punished with imprisonment of either description or a term which may extend to ten years, and shall also be liable to fine.

**456. Punishment for lurking house-trespass or house-breaking by night.**—Whoever commits lurking house-trespass by night, or house-breaking by night, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

**457. Lurking house-trespass or house-breaking by night in order to commit offence punishable with imprisonment.**—Whoever commits lurking house-trespass by night, or house-breaking by night, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to

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1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

fine; and, if the offence intended to be committed is theft, the term of the imprisonment may be extended to fourteen years.

**458. Lurking house-trespass or house-breaking by night after preparation for hurt, assault, or wrongful restraint.**—Whoever commits lurking house-trespass by night, or house-breaking by night, having made preparation for causing hurt to any person or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

**459. Grievous hurt caused whilst committing lurking house-trespass or house-breaking.**—Whoever, whilst committing lurking house-trespass or house-breaking, causes grievous hurt to any person or attempts to cause death or grievous hurt to any person, shall be punished with <sup>1</sup>[imprisonment for life], or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**460. All persons jointly concerned in lurking house-trespass or house-breaking by night punishable where death or grievous hurt caused by one of them.**—If, at the time of the committing of lurking house-trespass by night or house-breaking by night, any person guilty of such offence shall voluntarily cause or attempt to cause death or grievous hurt to any person, every person jointly concerned in committing such lurking house-trespass by night or house-breaking by night, shall be punished with <sup>1</sup>[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**461. Dishonestly breaking open receptacle containing property.**—Whoever dishonestly or with intent to commit mischief, breaks open or unfastens any closed receptacle which contains or which he believes to contain property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**462. Punishment for same offence when committed by person entrusted with custody.**—Whoever, being entrusted with any closed receptacle which contains or which he believes to contain property, without having authority to open the same, dishonestly, or with intent to commit mischief, breaks open or unfastens that receptacle, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

#### CHAPTER XVIII

##### OF OFFENCES RELATING TO DOCUMENTS AND TO<sup>2</sup>\*\*\* PROPERTY MARKS

**463. Forgery.**—<sup>3</sup>[Whoever makes any false document or false electronic record or part of a document or electronic record, with intent to cause damage or injury], to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.

**464. Making a false document.**—<sup>3</sup>[A person is said to make a false document or false electronic record—

First.—Who dishonestly or fraudulently—

(a) makes, signs, seals or executes a document or part of a document;

(b) makes or transmits any electronic record or part of any electronic record;

(c) affixes any <sup>4</sup>[electronic signature] on any electronic record;

(d) makes any mark denoting the execution of a document or the authenticity of the <sup>4</sup>[electronic signature],

with the intention of causing it to be believed that such document or part of document, electronic record or <sup>4</sup>[electronic signature] was made, signed, sealed, executed, transmitted or affixed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, executed or affixed; or

Secondly.—Who without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document or an electronic record in any material part thereof, after it has been made, executed or affixed with <sup>4</sup>[electronic signature] either by himself or by any other person, whether such person be living or dead at the time of such alteration; or

Thirdly.—Who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document or an electronic record or to affix his <sup>4</sup>[electronic signature] on any electronic record knowing that such person by reason of unsoundness of mind

1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

2. The words “TRADE OR” omitted by Act 43 of 1958, s. 135 and Sch. (w.e.f. 25-11-1959).

3. Subs. by Act 21 of 2000, s. 91 and the First Sch., for certain words (w.e.f. 17-10-2000).

4. Subs. by Act 10 of 2009, s. 51, for “digital signature” (w.e.f. 27-10-2009).

or intoxication cannot, or that by reason of deception practised upon him, he does not know the contents of the document or electronic record or the nature of the alteration.]

#### *Illustrations*

(a) A has a letter of credit upon B for rupees 10,000, written by Z. A, in order to defraud B, adds cipher to the 10,000, and makes the sum 1,00,000 intending that it may be believed by B that Z so wrote the letter. A has committed forgery.

(b) A, without Z's authority, affixes Z's seal to a document purporting to be a conveyance of an estate from Z to A, with the intention of selling the estate to B and thereby of obtaining from B the purchase-money. A has committed forgery.

(c) A picks up a cheque on a banker signed by B, payable to bearer, but without any sum having been inserted in the cheque. A fraudulently fills up the cheque by inserting the sum of ten thousand rupees. A commits forgery.

(d) A leaves with B, his agent, a cheque on a banker, signed by A, without inserting the sum payable and authorizes B to fill up the cheque by inserting a sum not exceeding ten thousand rupees for the purpose of making certain payments. B fraudulently fills up the cheque by inserting the sum of twenty thousand rupees. B commits forgery.

(e) A draws a bill of exchange on himself in the name of B without B's authority, intending to discount it as a genuine bill with a banker and intending to take up the bill on its maturity. Here, as A draws the bill with intent to deceive the banker by leading him to suppose that he had the security of B, and thereby to discount the bill, A is guilty of forgery.

(f) Z's will contains these words—"I direct that all my remaining property be equally divided between A, B and C." A dishonestly scratches out B's name, intending that it may be believed that the whole was left to himself and C. A has committed forgery.

(g) A endorses a Government promissory note and makes it payable to Z or his order by writing on the bill the words "Pay to Z or his order" and signing the endorsement. B dishonestly erases the words "Pay to Z or his order", and thereby converts the special endorsement into a blank endorsement. B commits forgery.

(h) A sells and conveys an estate to Z. A afterwards, in order to defraud Z of his estate, executes a conveyance of the same estate to B, dated six months earlier than the date of the conveyance to Z, intending it to be believed that he had conveyed the estate to B before he conveyed it to Z. A has committed forgery.

(i) Z dictates his will to A. A intentionally writes down a different legatee named by Z, and by representing to Z that he has prepared the will according to his instructions, induces Z to sign the will. A has committed forgery.

(j) A writes a letter and signs it with B's name without B's authority, certifying that A is a man of good character and in distressed circumstances from unforeseen misfortune, intending by means of such letter to obtain alms from Z and other persons. Here, as A made a false document in order to induce Z to part with property, A has committed forgery.

(k) A without B's authority writes a letter and signs it in B's name certifying to A's character, intending thereby to obtain employment under Z. A has committed forgery inasmuch as he intended to deceive Z by the forged certificate, and thereby to induce Z to enter into an express or implied contract for service.

*Explanation 1.*—A man's signature of his own name may amount to forgery.

#### *Illustrations*

(a) A signs his own name to a bill of exchange, intending that it may be believed that the bill was drawn by another person of the same name. A has committed forgery.

(b) A writes the word "accepted" on a piece of paper and signs it with Z's name, in order that B may afterwards write on the paper a bill of exchange drawn by B upon Z, and negotiate the bill as though it had been accepted by Z. A is guilty of forgery; and if B, knowing the fact, draws the bill upon the paper pursuant to A's intention, B is also guilty of forgery.

(c) A picks up a bill of exchange payable to the order of a different person of the same name. A endorses the bill in his own name, intending to cause it to be believed that it was endorsed by the person to whose order it was payable; here A has committed forgery.

(d) A purchases an estate sold under execution of a decree against B. B, after the seizure of the estate, in collusion with Z, executes a lease of the estate, to Z at a nominal rent and for a long period and dates the lease six months prior to the seizure, with intent to defraud A, and to cause it to be believed that the lease was granted before the seizure. B, though he executes the lease in his own name, commits forgery by antedating it.

(e) A, a trader, in anticipation of insolvency, lodges effects with B for A's benefit, and with intent to defraud his creditors; and in order to give a colour to the transaction, writes a promissory note binding himself to pay to B a sum for value received, and antedates the note, intending that it may be believed to have been made before A was on the point of insolvency. A has committed forgery under the first head of the definition.

*Explanation 2.*—The making of a false document in the name of a fictitious person, intending it to be believed that the document was made by a real person, or in the name of a deceased person, intending it to be believed that the document was made by the person in his lifetime, may amount to forgery.

#### *Illustration*

A draws a bill of exchange upon a fictitious person, and fraudulently accepts the bill in the name of such fictitious person with intent to negotiate it. A commits forgery.

<sup>1</sup>[*Explanation 3.*—For the purposes of this section, the expression "affixing <sup>2</sup>[electronic signature]" shall have the meaning assigned to it in clause (d) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000).]

**465. Punishment for forgery.**—Whoever commits forgery shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**466. Forgery of record of Court or of public register, etc.**—<sup>3</sup>[Whoever forges a document or an electronic record], purporting to be a record or proceeding of or in a Court of Justice, or a register of birth, baptism, marriage or burial, or a register kept by a public servant as such, or a certificate or document purporting to be made by a public servant in his official capacity, or an authority to institute or defend a suit, or to take any proceedings therein, or to confess judgment, or a power of attorney, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

<sup>1</sup>[*Explanation.*—For the purposes of this section, "register" includes any list, data or record of any entries maintained in the electronic form as defined in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000).]

**467. Forgery of valuable security, will, etc.**—Whoever forges a document which purports to be a valuable security or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest or dividends thereon, or to receive or deliver any money, movable property, or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any movable property or valuable security, shall be punished with <sup>4</sup>[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

1. Ins. by Act 21 of 2000, s. 91 and the First Sch. (w.e.f. 17-10-2000).

2. Subs. by Act 10 of 2009, s. 51, for "digital signature" (w.e.f. 27-10-2009).

3. Subs. by Act 21 of 2000, s. 91 and the First Sch., for certain words (w.e.f. 17-10-2000).

4. Subs. by Act 26 of 1955, s. 117 and the Sch., for "transportation for life" (w.e.f. 1-1-1956).

**468. Forgery for purpose of cheating.**—Whoever commits forgery, intending that the <sup>1</sup>[document or electronic record forged] shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**469. Forgery for purpose of harming reputation.**—Whoever commits forgery, <sup>2</sup>[intending that the document or electronic record forged] shall harm the reputation of any party, or knowing that it is likely to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

**470. Forged document.**—A false <sup>3</sup>[document or electronic record] made wholly or in part by forgery is designated “a forged <sup>3</sup>[document or electronic record]”.

**471. Using as genuine a forged document or electronic record.**—Whoever fraudulently or dishonestly uses as genuine any <sup>3</sup>[document or electronic record] which he knows or has reason to believe to be a forged <sup>3</sup>[document or electronic record], shall be punished in the same manner as if he had forged such <sup>3</sup>[document or electronic record].

**472. Making or possessing counterfeit seal, etc., with intent to commit forgery punishable under section 467.**—Whoever makes or counterfeits any seal, plate or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under section 467 of this Code, or, with such intent, has in his possession any such seal, plate or other instrument, knowing the same to be counterfeit, shall be punished with <sup>4</sup>[imprisonment for life], or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**473. Making or possessing counterfeit seal, etc., with intent to commit forgery punishable otherwise.**—Whoever makes or counterfeits any seal, plate or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under any section of this Chapter other than section 467, or, with such intent, has in his possession any such seal, plate or other instrument, knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**474. Having possession of document described in section 466 or 467, knowing it to be forged and intending to use it genuine.**—<sup>5</sup>[Whoever has in his possession any document or electronic record, knowing the same to be forged and intending that the same shall fraudulently or dishonestly be used as genuine, shall, if the document or electronic record is one of the description mentioned in section 466 of this Code], be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the document is one of the description mentioned in section 467, shall be punished with <sup>4</sup>[imprisonment for life], or with imprisonment of either description, for a term which may extend to seven years, and shall also be liable to fine.

**475. Counterfeiting device or mark used for authenticating documents described in section 467, or possessing counterfeit marked material.**—Whoever counterfeits upon, or in the substance of, any material, any device or mark used for the purpose of authenticating any document described in section 467 of this Code, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who, with such intent, has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with <sup>4</sup>[imprisonment for life], or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**476. Counterfeiting device or mark used for authenticating documents other than those described in section 467, or possessing counterfeit marked material.**—Whoever counterfeits upon, or in the substance of, any material, any device or mark used for the purpose of authenticating <sup>6</sup>[any document or electronic record] other than the documents described in section 467 of this Code, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who with such intent, has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

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1. Subs. by Act 21 of 2000, s. 91 and the First Sch., “document forged” (w.e.f. 17-10-2000).

2. Subs. by s. 91, and the First Sch., *ibid.*, “intending that the document forged” (w.e.f. 17-10-2000).

3. Subs. by Act 21 of 2000, s. 91 and the First Sch., for “document” (w.e.f. 17-10-2000).

5. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

4. Subs. by Act 21 of 2000, s. 91 and the First Sch., for certain words (w.e.f. 17-10-2000).

6. Subs. by Act 21 of 2000, s. 91 and the First Sch., for “any document” (w.e.f. 17-10-2000).

**477. Fraudulent cancellation, destruction, etc., of will, authority to adopt, or valuable security.**—Whoever fraudulently or dishonestly, or with intent to cause damage or injury to the public or to any person, cancels, destroys or defaces, or attempts to cancel, destroy or deface, or secretes or attempts to secrete any document which is or purports to be a will, or an authority to adopt a son, or any valuable security, or commits mischief in respect of such document, shall be punished with <sup>1</sup>[imprisonment for life], or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

<sup>2</sup>[**477A. Falsification of accounts.**—Whoever, being a clerk, officer or servant, or employed or acting in the capacity of a clerk, officer or servant, wilfully, and with intent to defraud, destroys, alters, mutilates or falsifies any <sup>3</sup>[book, electronic record, paper, writing] valuable security or account which belongs to or is in the possession of his employer, or has been received by him for or on behalf of his employer, or wilfully, and with intent to defraud, makes or abets the making of any false entry in, or omits or alters or abets the omission or alteration of any material particular from or in. any such <sup>5</sup>[book, electronic record, paper, writing] valuable security or account, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

*Explanation.*—It shall be sufficient in any charge under this section to allege a general intent to defraud without naming any particular person intended to be defrauded or specifying any particular sum of money intended to be the subject of the fraud, or any particular day on which the offence was committed.]

<sup>4</sup>[Of <sup>5\*\*\*</sup> property and other marks

**478.** [Trade Mark.] *Rep. by the Trade and Merchandise Marks Act, 1958 (43 of 1958), s. 135 and Sch. (w. e. f. 25-11-1959).*

**479. Property mark.**—A mark used for denoting that movable property belongs to a particular person is called a property mark.

**480.** [Using a false trade mark.] *Rep. by the Trade and Merchandise Marks Act, 1958 (43 of 1958), s. 135 and Sch. (w.e.f. 25- 11-1959).*

**481. Using a false property mark.**—Whoever marks any movable property or goods or any case, package or other receptacle containing movable property or goods, or uses any case, package or other receptacle having any mark thereon, in a manner reasonably calculated to cause it to be believed that the property or goods so marked, or any property or goods contained in any such receptacle so marked, belong to a person to whom they do not belong, is said to use a false property mark.

**482. Punishment for using a false property mark.**—Whoever uses <sup>6\*\*\*</sup> any false property mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

**483. Counterfeiting a property mark used by another.**—Whoever counterfeits any <sup>7\*\*\*</sup> property mark used by any other person shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**484. Counterfeiting a mark used by a public servant.**—Whoever counterfeits any property mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place, or that the property is of a particular quality or has passed through a particular office, or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

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1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

2. Ins. by Act 3 of 1895, s. 4.

3. Subs. by Act 21 of 2000, s. 91 and the First Sch., for “book, paper, writing” (w.e.f. 17-10-2000).

4. Subs. by Act 4 of 1889, s. 3, for the original heading and ss. 478 to 489.

5. The word “Trade” omitted by Act 43 of 1958, s. 135 and the Sch. (w.e.f. 25-11-1959).

6. The words “any false trade mark or” omitted by s. 135 and the Sch., *ibid.* (w.e.f. 25-11-1959).

7. The words “trade mark or” omitted by s. 135 and the Sch., *ibid.* (w.e.f. 25-11-1959).

<sup>1</sup>[**485. Making or possession of any instrument for counterfeiting a property mark.**—Whoever makes or has in his possession any die, plate or other instrument for the purpose of counterfeiting a property mark, or has in his possession a property mark for the purpose of denoting that any goods belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.]

**486. Selling goods marked with a counterfeit property mark.**—<sup>2</sup>[Whoever sells, or exposes, or has in possession for sale, any goods or things with a counterfeit property mark] affixed to or impressed upon the same or to or upon any case, package or other receptacle in which such goods are contained, shall, unless he proves

(a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark, and

(b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or

(c) that otherwise he had acted innocently,

be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

**487. Making a false mark upon any receptacle containing goods.**—Whoever makes any false mark upon any case, package or other receptacle containing goods, in a manner reasonably calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain or that it does not contain goods which it does contain, or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof, shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**488. Punishment for making use of any such false mark.**—Whoever makes use of any such false mark in any manner prohibited by the last foregoing section shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section.

**489. Tampering with property mark with intent to cause injury.**—Whoever removes, destroys, defaces or adds to any property mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.]

<sup>3</sup>[*Of currency-notes and bank-notes*

**489A. Counterfeiting currency-notes or bank-notes.**—Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any currency-note or bank-note, shall be punished with <sup>4</sup>[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

*Explanation.*—For the purposes of this section and of sections 489B, <sup>5</sup>[489C, 489D and 489E], the expression “bank-note” means a promissory note or engagement for the payment of money to bearer on demand issued by any person carrying on the business of banking in any part of the world, or issued by or under the authority of any State or Sovereign Power, and intended to be used as equivalent to, or as a substitute for money.

**489B. Using as genuine, forged or counterfeit currency-notes or bank-notes.**—Whoever sells to, or buys or receives from, any other person, or otherwise traffics in or uses as genuine, any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit, shall be punished with <sup>4</sup>[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

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1. Subs. by Act 43 of 1958, s. 135 and the Sch., for s. 485 (w.e.f. 25-11-1959).

2. Subs. by s. 135 and the Sch., *ibid.*, for certain words (w.e.f. 25-11-1959).

3. Added by Act 12 of 1899, s. 2.

4. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

5. Subs. by Act 35 of 1950, s. 3 and the Second Sch., for “489C and 489D”.



**489C. Possession of forged or counterfeit currency-notes or bank-notes.**—Whoever has in his possession any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit and intending to use the same as genuine or that it may be used as genuine, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

**489D. Making or possessing instruments or materials for forging or counterfeiting currency notes or bank-notes.**—Whoever makes, or performs any part of the process of making, or buys or sells or disposes of, or has in his possession, any machinery, instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for forging or counterfeiting any currency-note or bank-note, shall be punished with <sup>1</sup>[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.]

<sup>2</sup>**489E. Making or using documents resembling currency-notes or bank-notes.**—(1) Whoever makes, or causes to be made, or uses for any purpose whatsoever, or delivers to any person, any document purporting to be, or in any way resembling, or so nearly resembling as to be calculated to deceive, any currency-note or bank-note shall be punished with fine which may extend to one hundred rupees.

(2) If any person, whose name appears on a document the making of which is an offence under sub-section (1), refuses, without lawful excuse, to disclose to a police-officer on being so required the name and address of the person by whom it was printed or otherwise made, he shall be punished with fine which may extend to two hundred rupees.

(3) Where the name of any person appears on any document in respect of which any person is charged with an offence under sub-section (1) or on any other document used or distributed in connection with that document it may, until the contrary is proved, be presumed that that person caused the document to be made.]

## CHAPTER XIX

### OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE

**490.** [*Breach of contract of service during voyage or journey.*] *Rep. by the Workmen's Breach of Contract (Repealing) Act, 1925 (3 of 1925), s. 2 and Sch.*

**491. Breach of contract to attend on and supply wants of helpless person.**—Whoever, being bound by a lawful contract to attend on or to supply the wants of any person who, by reason of youth, or of unsoundness of mind, or of a disease or bodily weakness, is helpless or incapable of providing for his own safety or of supplying his own wants, voluntarily omits so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

**492.** [*Breach of contract to serve at distant place to which servant is conveyed at master's expense.*] *Rep. by the Workmen's Breach of Contract (Repealing) Act, 1925 (3 of 1925), s. 2 and Sch.*

## CHAPTER XX

### OF OFFENCES RELATING TO MARRIAGE

**493. Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.**—Every man who by deceit causes any woman who is not lawfully married to him to believe that she is lawfully married to him and to cohabit or have sexual intercourse with him in that belief, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**494. Marrying again during lifetime of husband or wife.**—Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

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1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

2. Ins. by Act 6 of 1943, s. 2.

*Exception.*—This section does not extend to any person whose marriage with such husband or wife has been declared void by a Court of competent jurisdiction,

nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of the subsequent marriage, shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time provided the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted of the real state of facts so far as the same are within his or her knowledge.

**495. Same offence with concealment of former marriage from person with whom subsequent marriage is contracted.**—Whoever commits the offence defined in the last preceding section having concealed from the person with whom the subsequent marriage is contracted, the fact of the former marriage, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**496. Marriage ceremony fraudulently gone through without lawful marriage.**—Whoever, dishonestly or with a fraudulent intention, goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**497. Adultery.**—Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. In such case the wife shall not be punishable as an abettor.

**498. Enticing or taking away or detaining with criminal intent a married woman.**—Whoever takes or entices away any woman who is and whom he knows or has reason to believe to be the wife of any other man, from that man, or from any person having the care of her on behalf of that man, with intent that she may have illicit intercourse with any person, or conceals or detains with that intent any such woman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

## <sup>1</sup>[CHAPTER XXA

### OF CRUELTY BY HUSBAND OR RELATIVES OF HUSBAND

**498A. Husband or relative of husband of a woman subjecting her to cruelty.**—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

*Explanation.*—For the purposes of this section, “cruelty” means—

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.]

## CHAPTER XXI

### OF DEFAMATION

**499. Defamation.**—Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.

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1. Ins. by Act 46 of 1983, s. 2 (w.e.f. 25-12-1983).

*Explanation 1.*—It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

*Explanation 2.*—It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

*Explanation 3.*—An imputation in the form of an alternative or expressed ironically, may amount to defamation.

*Explanation 4.*—No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

#### *Illustrations*

(a) A says—“Z is an honest man; he never stole B's watch”; intending to cause it to be believed that Z did steal B's watch. This is defamation, unless it fall within one of the exceptions.

(b) A is asked who stole B's watch. A points to Z, intending to cause it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the exceptions.

(c) A draws a picture of Z running away with B's watch, intending it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the exceptions.

**First Exception.—Imputation of truth which public good requires to be made or published.**—It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good is a question of fact.

**Second Exception.—Public conduct of public servants.**—It is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct, and no further.

**Third Exception.—Conduct of any person touching any public question.**—It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct, and no further.

#### *Illustration*

It is not defamation in A to express in good faith any opinion whatever respecting Z's conduct in petitioning Government on a public question, in signing a requisition for a meeting on a public question, in presiding or attending at such meeting, in forming or joining any society which invites the public support, in voting or canvassing for a particular candidate for any situation in the efficient discharge of the duties of which the public is interested.

**Fourth Exception.—Publication of reports of proceedings of courts.**—It is not defamation to publish substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings.

*Explanation.*—A Justice of the Peace or other officer holding an enquiry in open Court preliminary to a trial in a Court of Justice, is a Court within the meaning of the above section.

**Fifth Exception.—Merits of case decided in Court or conduct of witnesses and others concerned.**—It is not defamation to express in good faith any opinion whatever respecting the merits of any case, civil or criminal, which has been decided by a Court of Justice, or respecting the conduct of any person as a party, witness or agent, in any such case, or respecting the character of such person, as far as his character appears in that conduct, and no further.

#### *Illustrations*

(a) A says—“I think Z's evidence on that trial is so contradictory that he must be stupid or dishonest.” A is within this exception if he says this in good faith, inasmuch as the opinion which he expresses respects Z's character as it appears in Z's conduct as a witness, and no farther.

(b) But if A says—“I do not believe what Z asserted at that trial because I know him to be a man without veracity”; A is not within this exception, inasmuch as the opinion which express of Z's character, is an opinion not founded on Z's conduct as a witness.

**Sixth Exception.—Merits of public performance.**—It is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the

public, or respecting the character of the author so far as his character appears in such performance, and no further.

*Explanation.*—A performance may be submitted to the judgment of the public expressly or by acts on the part of the author which imply such submission to the judgment of the public.

#### *Illustrations*

(a) A person who publishes a book, submits that book to the judgment of the public.

(b) A person who makes a speech in public, submits that speech to the judgment of the public.

(c) An actor or singer who appears on a public stage, submits his acting or singing to the judgment of the public.

(d) A says of a book published by Z—“Z’s book is foolish; Z must be a weak man. Z’s book is indecent; Z must be a man of impure mind”. A is within the exception, if he says this in good faith, inasmuch as the opinion which he expresses of Z respects Z’s character only so far as it appears in Z’s book, and no further.

(e) But if A says “I am not surprised that Z’s book is foolish and indecent, for he is a weak man and a libertine”. A is not within this exception, in as much as the opinion which he expresses of Z’s character is an opinion not founded on Z’s book.

**Seventh Exception.—Censure passed in good faith by person having lawful authority over another.**—It is not defamation in a person having over another any authority, either conferred by law or arising out of a lawful contract made with that other, to pass in good faith any censure on the conduct of that other in matters to which such lawful authority relates.

#### *Illustration*

A Judge censuring in good faith the conduct of a witness, or of an officer of the Court; a head of a department censuring in good faith those who are under his orders, a parent censuring in good faith a child in the presence of other children; a schoolmaster, whose authority is derived from a parent, censuring in good faith a pupil in the presence of other pupils; a master censuring a servant in good faith for remissness in service; a banker censuring in good faith the cashier of his bank for the conduct of such cashier as such cashier— are within this exception.

**Eighth Exception.—Accusation preferred in good faith to authorised person.**—It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation.

#### *Illustration*

If A in good faith accuses Z before a Magistrate; if A in good faith complains of the conduct of Z, a servant, to Z’s master; if A in good faith complains of the conduct of Z, a child, to Z’s father—A is within this exception.

**Ninth Exception.—Imputation made in good faith by person for protection of his or other’s interests.**—It is not defamation to make an imputation on the character of another provided that the imputation be made in good faith for the protection of the interests of the person making it, or of any other person, or for the public good.

#### *Illustrations*

(a) A, a shopkeeper, says to B, who manages his business—“Sell nothing to Z unless he pays you ready money, for I have no opinion of his honesty.” A is within the exception, if he has made this imputation on Z in good faith for the protection of his own interests.

(b) A, a Magistrate, in making a report to his own superior officer, casts an imputation on the character of Z. Here, if the imputation is made in good faith, and for the public good, A is within the exception.

**Tenth Exception.—Caution intended for good of person to whom conveyed or for public good.**—It is not defamation to convey a caution, in good faith, to one person against another, provided that such caution be intended for the good of the person to whom it is conveyed, or of some person in whom that person is interested, or for the public good.

**500. Punishment for defamation.**—Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

**501. Printing or engraving matter known to be defamatory.**—Whoever prints or engraves any matter, knowing or having good reason to believe that such matter is defamatory of any person, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

**502. Sale of printed or engraved substance containing defamatory matter.**—Whoever sells or offers for sale any printed or engraved substance containing defamatory matter, knowing that it contains

such matter, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

## CHAPTER XXII

### OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE

**503. Criminal intimidation.**—Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

*Explanation.*—A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section.

#### *Illustration*

A, for the purpose of inducing B to resist from prosecuting a civil suit, threatens to burn B's house. A is guilty of criminal intimidation.

**504. Intentional insult with intent to provoke breach of the peace.**—Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

<sup>1</sup>[**505. Statements conducing to public mischief.**—<sup>2</sup>[(1)] Whoever makes, publishes or circulates any statement, rumour or report,—

(a) with intent to cause, or which is likely to cause, any officer, soldier, <sup>3</sup>[sailor or airman] in the Army, <sup>4</sup>[Navy or Air Force] <sup>5</sup>[of India] to mutiny or otherwise disregard or fail in his duty as such; or

(b) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquility; or

(c) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community,

shall be punished with imprisonment which may extend to <sup>6</sup>[three years], or with fine, or with both.

<sup>7</sup>[(2) **Statements creating or promoting enmity, hatred or ill-will between classes.**—Whoever makes, publishes or circulates any statement or report containing rumour or alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(3) **Offence under sub-section (2) committed in place of worship, etc.**—Whoever commits an offence specified in sub-section (2) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.]

*Exception.*—It does not amount to an offence, within the meaning of this section, when the person making, publishing or circulating any such statement, rumour or report, has reasonable grounds for

1. Subs. by Act 4 of 1898, s. 6, for s. 505.

2. Section 505 re-numbered as sub-section (1) of that section by Act 35 of 1969, s. 3 (w.e.f. 4-9-1969).

3. Subs. by Act 10 of 1927, s. 2 and the First Sch., for “or sailor”.

4. Subs. by s. 2 and the First Sch., *ibid.*, for “or Navy”.

5. Subs. by the A. O. 1950, for “of Her Majesty or in the Imperial Service Troops” The words “or in the Royal Indian Marine” occurring after the word “Majesty” omitted by Act 35 of 1934, s. 2 and Sch.

6. Subs. by Act 41 of 1961, s. 4, for “two years” (w.e.f. 12-9-1961).

7. Ins. by Act 35 of 1969, s. 3 (w.e.f. 4-9-1969).

believing that such statement, rumour or report is true and makes, publishes or circulates it <sup>2</sup>[in good faith and] without any such intent as aforesaid.]

**506. Punishment for criminal intimidation.**—Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

**If threat be to cause death or grievous hurt, etc.**—and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or <sup>1</sup>[imprisonment for life], or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

**507. Criminal intimidation by an anonymous communication.**—Whoever commits the offence of criminal intimidation by an anonymous communication, or having taken precaution to conceal the name or abode of the person from whom the threat comes, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to the punishment provided for the offence by the last preceding section.

**508. Act caused by inducing person to believe that he will be rendered an object of the Divine displeasure.**—Whoever voluntarily causes or attempts to cause any person to do anything which that person is not legally bound to do, or to omit to do anything which he is legally entitled to do, by inducing or attempting to induce that person to believe that he or any person in whom he is interested will become or will be rendered by some act of the offender an object of Divine displeasure if he does not do the thing which it is the object of the offender to cause him to do, or if he does the thing which it is the object of the offender to cause him to omit, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

#### *Illustrations*

(a) A sits dhurna at Z's door with the intention of causing it to be believed that, by so sitting, he renders Z an object of Divine displeasure. A has committed the offence defined in this section.

(b) A threatens Z that, unless Z performs a certain act, A will kill one of A's own children, under such circumstances that the killing would be believed to render Z an object of Divine displeasure. A has committed the offence defined in this section.

**509. Word, gesture or act intended to insult the modesty of a woman.**—Whoever, intending to insult the modesty of any woman, utters any words, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, <sup>2</sup>[shall be punished with simple imprisonment for a term which may extend to three years, and also with fine].

#### **STATE AMENDMENT**

##### **Chhattisgarh**

**After Section 509 of the Penal Code, the following shall be inserted, namely: —**

**509A. Sexual harassment by relative.**—Whoever, being related to a woman through blood, adoption or marriage, and not being her husband, takes the advantage of his proximity and induces, seduces or threatens such woman with intent to insult her modesty by word, gesture or act shall be punished with rigorous imprisonment which shall not be less than one year but which may extend to five years and shall also liable to fine.

**509B. Sexual harassment by electronic mode.**—Whoever, by means of telecommunication device or by any other electronic mode including internet, makes creates, solicits or initiates the transmission of any comment, request, suggestion, proposal, image or other communication, which is obscene, lewd, lascivious, filthy or indecent with intent to harass or cause or having knowledge that it would harass or cause annoyance or mental agony to a woman shall be punished with rigorous imprisonment for a term which shall not be less than six months but may extend to two years and shall also be liable to fine.

[Vide Chhattisgarh Act 25 of 2015, sec. 6].

1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

2. Subs. by Act 13 of 2013, s. 10, for “shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both” (w.e.f. 3-2-2013).

**510. Misconduct in public by a drunken person.**—Whoever, in a state of intoxication, appears in any public place, or in any place which it is a trespass in him to enter, and there conducts himself in such a manner as to cause annoyance to any person, shall be punished with simple imprisonment for a term which may extend to twenty-four hours, or with fine which may extend to ten rupees, or with both.

## CHAPTER XXIII

### OF ATTEMPTS TO COMMIT OFFENCES

**511. Punishment for attempting to commit offences punishable with imprisonment for life or other imprisonment.**—Whoever attempts to commit an offence punishable by this Code with <sup>1</sup>[imprisonment for life] or imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Code for the punishment of such attempt, be punished with <sup>2</sup>[imprisonment of any description provided for the offence, for a term which may extend to one-half of the imprisonment for life or, as the case may be, one-half of the longest term of imprisonment provided for that offence], or with such fine as is provided for the offence, or with both.

#### *Illustrations*

(a) A makes an attempt to steal some jewels by breaking open a box, and finds after so opening the box, that there is no jewel in it. He has done an act towards the commission of theft, and therefore is guilty under this section.

(b) A makes an attempt to pick the pocket of Z by thrusting his hand into Z's pocket. A fails in the attempt in consequence of Z's having nothing in his pocket. A is guilty under this section.

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1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

2. Subs. by s. 117 and the Sch., *ibid.*, for certain words (w.e.f. 1-1-1956).



# भारत का संविधान

[1 मई, 2024 को यथाविद्यमान]

## THE CONSTITUTION OF INDIA

[As on 1<sup>st</sup> May, 2024]

**2024**

भारत सरकार

विधि और न्याय मंत्रालय

विधायी विभाग, राजभाषा खण्ड

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

LEGISLATIVE DEPARTMENT, OFFICIAL LANGUAGES WING



## PREFACE

*This is the sixth pocket size edition of the Constitution of India in the diglot form. In this edition, the text of the Constitution of India has been brought up-to-date by incorporating therein all the amendments up to the Constitution (One Hundred and Sixth Amendment) Act, 2023. The foot notes below the text indicate the Constitution Amendment Acts by which such amendments have been made.*

*The Constitution (One Hundredth Amendment) Act, 2015 containing details of acquired and transferred territories between the Governments of India and Bangladesh has been provided in Appendix I.*

*The Constitution (Application to Jammu and Kashmir) Order, 2019 and the declaration under article 370(3) of the Constitution have been provided respectively in Appendix II and Appendix III for reference.*

New Delhi;  
1<sup>st</sup> May, 2024

**Dr. Rajiv Mani,**  
Secretary to the Government of India.

## LIST OF ABBREVIATIONS USED

Art., arts.	.....	<i>for</i> Article, articles.
Cl., cls.	.....	" Clause, clauses.
C.O.	.....	" Constitution Order.
Ins.	.....	" Inserted.
P., pp.	.....	" Page, pages.
Pt.	.....	" Part.
Rep.	.....	" Repealed.
Ss., ss.	.....	" Section, sections.
Sch.	.....	" Schedule.
Subs.	.....	" Substituted.
w.e.f.	.....	" with effect from.
w.r.e.f.	.....	" with retrospective effect from.

# THE CONSTITUTION OF INDIA

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# THE CONSTITUTION OF INDIA

## PREAMBLE

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

JUSTICE, social, economic and political;

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

EQUALITY of status and of opportunity;

and to promote among them all

FRATERNITY assuring the dignity of the individual and the <sup>2</sup>[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.

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

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

**PART I**  
**THE UNION AND ITS TERRITORY**

**1. Name and territory of the Union.**—(1) India, that is Bharat, shall be a Union of States.

<sup>1</sup>[(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;

<sup>2</sup>[(b) the Union territories specified in the First Schedule;  
and]

(c) such other territories as may be acquired.

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

<sup>3</sup>[**2A.** *[Sikkim to be associated with the Union].*—Omitted by the Constitution (Thirty-sixth Amendment) Act, 1975, s. 5 (w.e.f. 26-4-1975).]

**3. Formation of new States and alteration of areas, boundaries or names of existing States.**—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:

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1. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 2, for cl. (2) (w.e.f. 1-11-1956).

2. Subs. by s. 2 *ibid.* for sub-clause (b) (w.e.f. 1-11-1956).

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



<sup>1</sup>[Provided that no Bill for the purpose shall be introduced in either House of Parliament except on the recommendation of the President and unless, where the proposal contained in the Bill affects the area, boundaries or name of any of the States <sup>2\*\*\*</sup>, 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.]

<sup>3</sup>[*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. 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.**—(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.

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

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1. Subs. by the Constitution (Fifth Amendment) Act, 1955, s. 2, for the proviso (w.e.f. 24-12-1955).

2. The words and letters “specified in Part A or Part B of the First Schedule” omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

3. Ins. by the Constitution (Eighteenth Amendment) Act, 1966, s. 2 (w.e.f. 27-8-1966).

**PART II**  
**CITIZENSHIP**

**5. Citizenship at the commencement of the Constitution.**—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.

**6. Rights of citizenship of certain persons who have migrated to India from Pakistan.**—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 grand-parents 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.

**7. Rights of citizenship of certain migrants to Pakistan.**—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:

## (Part II.—Citizenship)

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

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

**10. Continuance of the rights of citizenship.**—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.

**11. Parliament to regulate the right of citizenship by law.**—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.

**PART III**  
**FUNDAMENTAL RIGHTS**

*General*

**12. Definition.**—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.

**13. Laws inconsistent with or in derogation of the fundamental rights.**—(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.

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

*Right to Equality*

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

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

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

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1. Ins. by the Constitution (Twenty-fourth Amendment) Act, 1971, s. 2 (w.e.f. 5-11-1971).

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### (Part III.—Fundamental Rights)

(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.

<sup>1</sup>[(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.]

<sup>2</sup>[(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.]

<sup>3</sup>[(6) Nothing in this article or sub-clause (g) of clause (1) of article 19 or clause (2) of article 29 shall prevent the State from making,—

(a) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5); and

(b) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5) 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, which in the case of reservation would be in addition to the existing reservations and subject to a maximum of ten per cent. of the total seats in each category.

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1. Added by the Constitution (First Amendment) Act, 1951, s. 2 (w.e.f. 18-6-1951).

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

3. Ins. by the Constitution (One Hundred and Third Amendment) Act, 2019, s. 2 (w.e.f. 14-1-2019).

## (Part III.—Fundamental Rights)

*Explanation.*—For the purposes of this article and article 16, "economically weaker sections" shall be such as may be notified by the State from time to time on the basis of family income and other indicators of economic disadvantage.]

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

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

(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office <sup>1</sup>[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.

<sup>2</sup>[(4A) Nothing in this article shall prevent the State from making any provision for reservation <sup>3</sup>[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.]

<sup>4</sup>[(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.]

1. Subs. 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" (w.e.f. 1-11-1956).

2. Ins. by the Constitution (Seventy-seventh Amendment) Act, 1995, s. 2 (w.e.f. 17-6-1995).

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

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

(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.

<sup>1</sup>[(6) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any economically weaker sections of citizens other than the classes mentioned in clause (4), in addition to the existing reservation and subject to a maximum of ten per cent. of the posts in each category.]

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

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

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

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

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

*Right to Freedom*

**19. Protection of certain rights regarding freedom of speech, etc.—**

(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 <sup>2</sup>[or co-operative societies];
- (d) to move freely throughout the territory of India;

1. Ins. by the Constitution (One Hundred and Third Amendment) Act, 2019, s. 3 (w.e.f. 14-1-2019).

2. Ins. by the Constitution (Ninety-seventh Amendment) Act, 2011, s. 2 (w.e.f. 8-2-2012).

## (Part III.—Fundamental Rights)

(e) to reside and settle in any part of the territory of India; <sup>1</sup>[and]

<sup>2</sup>[(f)\* \* \* \* \*]

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

<sup>3</sup>[(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 <sup>4</sup>[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 <sup>4</sup>[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 <sup>4</sup>[the sovereignty and 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 <sup>5</sup>[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.

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

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

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

4. Ins. by the Constitution (Sixteenth Amendment) Act, 1963, s. 2 (w.e.f. 5-10-1963).

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



## (Part III.—Fundamental Rights)

(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, <sup>1</sup>[nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to,—

(i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business; or

(ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.]

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

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

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

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

<sup>2</sup>[**21A. Right to education.**—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.]

**22. Protection against arrest and detention in certain cases.**—(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.

1. Subs. by the Constitution (First Amendment) Act, 1951, s. 3, for certain words (w.e.f. 18-6-1951).

2. Ins. by the Constitution (Eighty-sixth Amendment) Act, 2002, s. 2 (w.e.f. 1-4-2010).

## (Part III.—Fundamental Rights)

(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 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:

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\* Cl. (4) shall stand substituted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 3 (date yet to be notified) 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 Dehli;

(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 that 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)

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).

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\* Sub-clause (a) shall stand omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 3(b)(i) (date to be notified).

\*\* Sub-clause (b) shall stand re-lettered as sub-clause (a) by s. 3(b)(ii), *ibid.* (date to be notified).

\*\*\* Sub-clause (c) shall stand re-lettered as sub-clause (b) by s. 3(b)(iii), *ibid.* (date to be notified).

\*\*\*\* Sub-clause (a) of clause (4) shall stand substituted as "clause (4)" by s. 3(b)(iii), *ibid.* (date to be notified).

## (Part III.—Fundamental Rights)

*Right against Exploitation***23. Prohibition of traffic in human beings and forced labour.—**(1)

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

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

**24. Prohibition of employment of children in factories, etc.—**No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

*Right to Freedom of Religion*

**25. Freedom of conscience and free profession, practice and propagation of religion.—**(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, practice and propagate 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. Freedom to manage religious affairs.—**Subject to public order, morality and health, every religious denomination or any section thereof shall have the right—

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

## (Part III.—Fundamental Rights)

- (b) to manage its own affairs in matters of religion;
- (c) to own and acquire movable and immovable property; and
- (d) to administer such property in accordance with law.

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

**28. Freedom as to attendance at religious instruction or religious worship in certain educational institutions.**—(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*

**29. Protection of interests of minorities.**—(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.

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

## (Part III.—Fundamental Rights)

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

2\* \* \* \*

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

<sup>3</sup>[*Saving of Certain Laws*]

<sup>4</sup>**[31A. Saving of laws providing for acquisition of estates, etc.—**

<sup>5</sup>[(1) Notwithstanding anything contained in article 13, no law providing for—

(a) the acquisition by the State of any estate or of any rights therein or the extinguishment or modification of any such rights; or

(b) the taking over of the management of any property by the State for a limited period either in the public interest or in order to secure the proper management of the property; or

(c) the amalgamation of two or more corporations either in the public interest or in order to secure the proper management of any of the corporations; or

(d) the extinguishment or modification of any rights of managing agents, secretaries and treasurers, managing directors, directors or managers of corporations, or of any voting rights of shareholders thereof; or

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

2. Sub-heading "Right to Property" omitted by s. 5, *ibid.* (w.e.f. 20-6-1979).

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

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

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

## (Part III.—Fundamental Rights)

(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 <sup>1</sup>[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:]

<sup>2</sup>[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,—

<sup>3</sup>[(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 <sup>4</sup>[Tamil Nadu] and Kerala, any *janmam* right;

(ii) any land held under ryotwari settlement;

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

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

2. Ins. by the Constitution (Seventeenth Amendment) Act, 1964, s. 2(i) (w.e.f. 20-6-1964).

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

4. Subs. 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)

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

<sup>2</sup>[**31B. Validation of certain Acts and Regulations.**—Without prejudice to the generality of the provisions contained in article 31A, none of the Acts and Regulations specified in the Ninth Schedule nor any of the provisions thereof shall be deemed to be void, or ever to have become void, on the ground that such Act, Regulation or provision is inconsistent with, or takes away or abridges any of the rights conferred by, any provisions of this Part, and notwithstanding any judgment, decree or order of any court or Tribunal to the contrary, each of the said Acts and Regulations shall, subject to the power of any competent Legislature to repeal or amend it, continue in force.]

<sup>3</sup>[**31C. Saving of laws giving effect to certain directive principles.**—Notwithstanding anything contained in article 13, no law giving effect to the policy of the State towards securing <sup>4</sup>[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 <sup>5</sup>[article 14 or article 19;] <sup>6</sup>[*and no law 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.]

<sup>7</sup>**31D.** [*Saving of laws in respect of anti-national activities.*].—Omitted by the Constitution (Forty-third Amendment) Act, 1977, s. 2 (w.e.f. 13-4-1978).

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

2. Ins. by the Constitution (First Amendment) Act, 1951, s. 5 (w.e.f. 18-6-1951).

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

4. Subs. 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*, AIR 1980 SC 1789.

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

6. The words in italics struck down by the Supreme Court in *Kesavananda Bharati vs. State of Kerala*, AIR 1973, SC 1461.

7. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 5 (w.e.f. 03-01-1977).



## (Part III.—Fundamental Rights)

*Right to Constitutional Remedies***32. Remedies for enforcement of rights conferred by this Part.—**(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.

<sup>1</sup>**32A.** [*Constitutional validity of State laws not to be considered in proceedings under article 32.*—Omitted by the Constitution (Forty-third Amendment) Act, 1977, s. 3 (w.e.f. 13-4-1978).

<sup>2</sup>**[33. Power of Parliament to modify the rights conferred by this Part in their application to Forces, etc.]**—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),

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

1. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 6 (w.e.f. 1-2-1977).

2. Subs. by the Constitution (Fiftieth Amendment) Act, 1984, s. 2, for art. 33 (w.e.f. 11-9-1984).

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

**35. Legislation to give effect to the provisions of this Part.**—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,

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

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

**38. State to secure a social order for the promotion of welfare of the people.**—<sup>1</sup>[(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.

<sup>2</sup>[(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. Certain principles of policy to be followed by the State.**—The State shall, in particular, direct its policy towards securing—

(a) that the citizens, men and women equally, have the right to an adequate means of livelihood;

(b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;

(c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

(d) that there is equal pay for equal work for both men and women;

(e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;

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

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

## (Part IV.— Directive Principles of State Policy)

<sup>1</sup>[(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.]

<sup>2</sup>[**39A. Equal justice and free legal aid.**—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.]

**40. Organisation of village panchayats.**—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.

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

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

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

<sup>3</sup>[**43A. Participation of workers in management of industries.**—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.]

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

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

3. Ins. by s. 9, *ibid.* (w.e.f. 3-1-1977).

## (Part IV.— Directive Principles of State Policy)

<sup>1</sup>[**43B. Promotion of co-operative societies.**—The State shall endeavour to promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies.]

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

<sup>2</sup>[**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.]

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

**47. Duty of the State to raise the level of nutrition and the standard of living and to improve public health.**—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.

**48. Organisation of agriculture and animal husbandry.**—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.

<sup>3</sup>[**48A. Protection and improvement of environment and safeguarding of forests and wild life.**—The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.]

1. Ins. by the Constitution (Ninety-seventh Amendment) Act, 2011, s. 3 (w.e.f. 15-2-2012).

2. Subs. by the Constitution (Eighty-sixth Amendment) Act, 2002, s. 3, for art. 45 (w.e.f. 1-4-2010).

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

## (Part IV.— Directive Principles of State Policy)

**49. Protection of monuments and places and objects of national importance.**—It shall be the obligation of the State to protect every monument or place or object of artistic or historic interest, <sup>1</sup>[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.

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

**51. Promotion of international peace and security.**—The State shall endeavour to—

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

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1. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 27, for "declared by Parliament by law" (w.e.f. 1-11-1956).

## <sup>1</sup>[PART IVA

### FUNDAMENTAL DUTIES

**51A. Fundamental duties.**—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; ]

<sup>2</sup>[(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.]

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

2. Ins. by the Constitution (Eighty-sixth Amendment) Act, 2002, s. 4 (w.e.f. 1-4-2010).

## PART V

### THE UNION

#### CHAPTER I.—THE EXECUTIVE

##### *The President and Vice-President*

**52. The President of India.**—There shall be a President of India.

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

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

(3) Nothing in this article shall—

(a) be deemed to transfer to the President any functions conferred by any existing law on the Government of any State or other authority; or

(b) prevent Parliament from conferring by law functions on authorities other than the President.

**54. Election of President.**—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.

<sup>1</sup>[*Explanation.*—In this article and in article 55, “State” includes the National Capital Territory of Delhi and the Union territory of \*Puducherry.]

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

(2) 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;

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1. Ins. 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 (44 of 2006), s. 3 (w.e.f. 1-10-2006).



## (Part V.—The Union)

(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.

<sup>1</sup>[*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 been published shall, until the relevant figures for the first census taken after the year <sup>2</sup>[2026] have been published, be construed as a reference to the 1971 census.]

**56. Term of office of President.**—(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.

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

2. Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 2, for “2000” (w.e.f. 21-2-2002).

## (Part V.—The Union)

**57. Eligibility for re-election.**—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.

**58. Qualifications for election as President.**—(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.

*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 <sup>1\*\*\*</sup> of any State or is a Minister either for the Union or for any State.

**59. Conditions of President's office.**—(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.

(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. Oath or affirmation by the President.**—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—

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1. The words "or Rajpramukh or Uparajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

## (Part V.—The Union)

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

of President (or discharge the functions of the President) of India 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 India."

**61. Procedure for impeachment of the President.**—(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.

**62. Time of holding election to fill vacancy in the office of President and the term of office of person elected to fill casual vacancy.**—(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, be entitled to hold office for the full term of five years from the date on which he enters upon his office.

**63. The Vice-President of India.**—There shall be a Vice-President of India.

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

## (Part V.—The Union)

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

(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. Election of Vice-President.**—(1) The Vice-President shall be elected by the <sup>1</sup>[members of an electoral college consisting of the members of both Houses of Parliament] in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot.

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

(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

1. Subs. by the Constitution (Eleventh Amendment) Act, 1961, s. 2, for "members of both Houses of Parliament assembled at a joint meeting" (w.e.f. 19-12-1961).

## (Part V.—The Union)

(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<sup>1\*\*\*</sup> of any State or is a Minister either for the Union or for any State.

**67. Term of office of Vice-President.**—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;

(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. 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.**—

(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. Oath or affirmation by the Vice-President.**—Every Vice-President shall, before entering upon his office, make and subscribe before the

1. The words "or Rajpramukh or Uparajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

## (Part V.—The Union)

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 faith and solemnly affirm

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. Discharge of President's functions in other contingencies.**—Parliament may make such provision as it thinks fit for the discharge of the functions of the President in any contingency not provided for in this Chapter.

<sup>1</sup>[**71. Matters relating to, or connected with, the election of a President or Vice-President.**—(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.

(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.]

**72. Power of President to grant pardons, etc., and to suspend, remit or commute sentences in certain cases.**—(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;

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1. Subs. by the Constitution (Thirty-ninth Amendment) Act, 1975, s. 2 (w.e.f. 10-8-1975) and further subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 10. (w.e.f. 20-6-1979).

## (Part V.—The Union)

(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 <sup>1\*\*\*</sup> of a State under any law for the time being in force.

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

(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 <sup>2\*\*\*</sup> 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.

1. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

2. The words and letters "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

## (Part V.—The Union)

*Council of Ministers*

**74. Council of Ministers to aid and advise President.**—<sup>1</sup>[(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:]

<sup>2</sup>[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.

**75. Other provisions as to Ministers.**—(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.

<sup>3</sup>[(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.

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

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

3. Ins. by the Constitution (Ninety-first Amendment) Act, 2003, s. 2 (w.e.f. 1-1-2004).



## (Part V.—The Union)

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

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

*The Attorney-General for India*

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

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

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

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

*Conduct of Government Business*

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

(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 rules<sup>1</sup> 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.

<sup>2</sup>(4) \* \* \* \*

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

2. Cl. (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)

**78. Duties of Prime Minister as respects the furnishing of information to the President, etc.**—It shall be the duty of the Prime Minister—

(a) to communicate to the President all decisions of the Council of Ministers relating to the administration of the affairs of the Union and proposals for legislation;

(b) to furnish such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for; and

(c) if the President so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council.

## CHAPTER II.—PARLIAMENT

*General*

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

**80. Composition of the Council of States.**—(1) <sup>1</sup>[<sup>2\*\*\*</sup> 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 <sup>3</sup>[and of the Union territories].

(2) The allocation of seats in the Council of States to be filled by representatives of the States <sup>3</sup>[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.

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

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

3. Added by the Constitution (Seventh Amendment) Act, 1956, s. 3 (w.e.f. 1-11-1956).

## (Part V.—The Union)

(4) The representatives of each State <sup>1\*\*\*</sup> 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 <sup>2</sup>[Union territories] in the Council of States shall be chosen in such manner as Parliament may by law prescribe.

<sup>3</sup>[**81. Composition of the House of the People.**—(1) <sup>4</sup>[Subject to the provisions of article 331 <sup>5\*\*\*</sup>], the House of the People shall consist of—

(a) not more than <sup>6</sup>[five hundred and thirty members] chosen by direct election from territorial constituencies in the States; and

(b) not more than <sup>7</sup>[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:

<sup>8</sup>[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.]

1. The words and letters "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 3 (w.e.f. 1-11-1956).

2. Subs. by s. 3, *ibid.*, for "States specified in Part C of First Schedule" (w.e.f. 1-11-1956).

3. Subs. by s. 4, *ibid.*, for arts. 81 and 82 (w.e.f. 1-11-1956).

4. Subs. by the Constitution (Thirty-fifth Amendment) Act, 1974, s. 4, for "subject to the provisions of art. 331" (w.e.f. 1-3-1975).

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

6. Subs. 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).

7. Subs. by the Constitution (Thirty-first Amendment) Act, 1973, s. 2, for "twenty-five members" (w.e.f. 17-10-1973).

8. Ins. by s. 2, *ibid.* (w.e.f. 17-10-1973).

## (Part V.—The Union)

(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:

<sup>1</sup>[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 <sup>2</sup>[2026] have been published, <sup>3</sup>[be construed,—

(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 <sup>4</sup>[2001] census.]]

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

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

<sup>5</sup>[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 <sup>6</sup>[2026] have been published, it shall not be necessary to <sup>7</sup>[readjust,—

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

2. Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 3, for "2000" (w.e.f. 21-2-2002).

3. Subs. by s.3, *ibid.*, for certain words (w.e.f. 21-2-2002).

4. Subs. by the Constitution (Eighty-seventh Amendment) Act, 2003, s. 2, for "1991" (w.e.f. 22-6-2003).

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

6. Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 4, for "2000" (w.e.f. 21-2-2002).

7. Subs. by s.4, *ibid.*, for certain words (w.e.f. 21-2-2002).

## (Part V.—The Union)

(i) the allocation of seats in the House of the 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 <sup>1</sup>[2001] census,

under this article.]]

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

(2) The House of the People, unless sooner dissolved, shall continue for <sup>2</sup>[five years] from the date appointed for its first meeting and no longer and the expiration of the said period of <sup>2</sup>[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. Qualification for membership of Parliament.**—A person shall not be qualified to be chosen to fill a seat in Parliament unless he—

<sup>3</sup>[(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.

1. Subs. by the Constitution (Eighty-seventh Amendment) Act, 2003, s. 3, for "1991" (w.e.f. 22-6-2003).

2. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 17, for "five years" (w.e.f. 3-1-1977) and further subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 13, for "six years" (w.e.f. 20-6-1979).

3. Subs. by the Constitution (Sixteenth Amendment) Act, 1963, s. 3, for cl.(a) (w.e.f. 5-10-1963).

## (Part V.—The Union)

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

(2) The President may from time to time—

(a) prorogue the Houses or either House;

(b) dissolve the House of the People.]

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

(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.

**87. Special address by the President.**—(1) At the commencement of <sup>2</sup>[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 <sup>3\*\*\*</sup>.

**88. Rights of Ministers and Attorney-General as respects Houses.**—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.

1. Subs. by the Constitution (First Amendment) Act, 1951, s. 6, for art. 85 (w.e.f. 18-6-1951).

2. Subs. by the Constitution (First Amendment) Act, 1951, s. 7, for "every session" (w.e.f. 18-6-1951).

3. The words "and for the precedence of such discussion over other business of the House" omitted by s. 7, *ibid.* (w.e.f. 18-6-1951).

## (Part V.—The Union)

*Officers of Parliament*

**89. The Chairman and Deputy Chairman of the Council of States.**—(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.

**90. Vacation and resignation of, and removal from, the office of Deputy Chairman.**—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:

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

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

## (Part V.—The Union)

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

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

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



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

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

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

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

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

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

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

*Conduct of Business*

**99. Oath or affirmation by members.**—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.

**100. Voting in Houses, power of Houses to act notwithstanding vacancies and quorum.**—(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.

<sup>1</sup>[(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*

**101. Vacation of seats.**—(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.

1. Cls. (3) and (4) omitted by the Constitution (Forty-second Amendment) Act, 1976, s. 18 (date not notified). This amendment was omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 45 (w.e.f. 20-6-1979).

## (Part V.—The Union)

(2) No person shall be a member both of Parliament and of a House of the Legislature of a State <sup>1\*\*\*</sup>, and if a person is chosen a member both of Parliament and of a House of the Legislature of <sup>2</sup>[a State], then, at the expiration of such period as may be specified in rules\* made by the President, that person's seat in Parliament shall become vacant, unless he has previously resigned his seat in the Legislature of the State.

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

(a) becomes subject to any of the disqualifications mentioned in <sup>3</sup>[clause (1) or clause (2) of article 102]; or

<sup>4</sup>[(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:

<sup>5</sup>[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 which the House is prorogued or is adjourned for more than four consecutive days.

1. The words and letters "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

2. Subs. by s. 29 and Sch., *ibid.*, for "such a State" (w.e.f. 1-11-1956).

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

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

4. Subs. by the Constitution (Thirty-third Amendment) Act, 1974, s. 2 (w.e.f. 19-5-1974).

5. Ins. by s.2, *ibid.* (w.e.f. 19-5-1974).

## (Part V.—The Union)

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

<sup>1</sup>[(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.

<sup>2</sup>[*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.

<sup>3</sup>[(2) A person shall be disqualified for being a member of either House of Parliament if he is so disqualified under the Tenth Schedule.]

<sup>4</sup>[**103. Decision on questions as to disqualifications of members.**—

(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.

1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 19 to read as "(a) if he holds any such office of profit under the Government of India or the Government of any State as is declared by Parliament by law to disqualify its holder" (date not notified). This amendment was omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 45 (w.e.f. 20-6-1979).

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

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

4. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 20, for art. 103 (w.e.f. 3-1-1977) and further subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 14, for art. 103 (w.e.f. 20-6-1979).

## (Part V.—The Union)

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

*Powers, Privileges and Immunities of Parliament and its Members*

**105. Powers, privileges, etc., of the Houses of Parliament and of the members and committees thereof.**—(1) Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of Parliament, there shall be freedom of speech in Parliament.

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

<sup>1</sup>[(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, <sup>2</sup>[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.]].

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1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 21 (date to be notified). This amendment was omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 45 (w.e.f. 20-6-1979).

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

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

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

*Legislative Procedure*

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

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

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

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

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

**108. Joint sitting of both Houses in certain cases.**—(1) If after a Bill has been passed by one House and transmitted to the other House—

(a) the Bill is rejected by the other House; or

(b) the Houses have finally disagreed as to the amendments to be made in the Bill; or

(c) more than six months elapse from the date of the reception of the Bill by the other House without the Bill being passed by it,

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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;

(b) if the Bill has been so passed and returned, only such amendments as aforesaid shall be proposed to the Bill and such other amendments as are relevant to the matters with respect to which the Houses have not agreed, and the decision of the person presiding as to the amendments which are admissible under this clause shall be final.

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

**109. Special procedure in respect of Money Bills.**—(1) A Money Bill shall not be introduced in the Council of States.

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

(a) the imposition, abolition, remission, alteration or regulation of any tax;

(b) the regulation of the borrowing of money or the giving of any guarantee by the Government of India, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of India;

(c) the custody of the Consolidated Fund or the Contingency Fund of India, the payment of moneys into or the withdrawal of moneys from any such Fund;

(d) the appropriation of moneys out of the Consolidated Fund of India;

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



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(f) the receipt of money on account of the Consolidated Fund of India or the public account of India or the custody or issue of such money or the audit of the accounts of the Union or of a State; or

(g) any matter incidental to any of the matters specified in sub-clauses (a) to (f).

(2) A Bill shall not be deemed to be a Money Bill by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

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

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

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

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

*Procedure in Financial Matters*

**112. Annual financial statement.**—(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—

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

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

and shall distinguish expenditure on revenue account from other expenditure.

(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 <sup>1</sup>[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;

(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.

**113. Procedure in Parliament with respect to estimates.**—(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.

1. Subs. 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" (w.e.f. 1-11-1956).

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

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

**114. Appropriation Bills.**—(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.

(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. Supplementary, additional or excess grants.**—(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,

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.

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(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. Votes on account, votes of credit and exceptional grants.**—(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 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.

**117. Special provisions as to financial Bills.**—(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.

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(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 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. Rules of procedure.**—(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.

(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. Regulation by law of procedure in Parliament in relation to financial business.**—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 effect in relation to Parliament under clause (2) of that article, such provision shall prevail.

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\* The brackets and words "(including the quorum to constitute a meeting of the House" ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 22 (date not notified). This amendment was omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 45 (w.e.f. 20-6-1979).

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

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

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

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

**122. Courts not to inquire into proceedings of Parliament.**—(1) The validity of any proceedings in Parliament shall not be called in question on the ground of any alleged irregularity of procedure.

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

## CHAPTER III.—LEGISLATIVE POWERS OF THE PRESIDENT

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

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

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

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

*Explanation.*—Where the Houses of Parliament are summoned to reassemble on different dates, the period of six weeks shall be reckoned from the later of those dates for the purposes of this clause.

(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.

<sup>1</sup>(4)\* \* \* \*

## CHAPTER IV.—THE UNION JUDICIARY

**124. Establishment and constitution of the Supreme Court.—**(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 "[seven] other Judges.

(2) Every Judge of the Supreme Court shall be appointed by the President by warrant under his hand and seal <sup>2</sup>[on the recommendation of the National Judicial Appointments Commission referred to in article 124A] and shall hold office until he attains the age of sixty-five years:

<sup>3</sup>[\* \* \* \* \*]

<sup>4</sup>[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 in the manner provided in clause (4).

1. Ins. by the Constitution (Thirty-eighth Amendment) Act, 1975, s. 2 (with retrospective effect) and omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 16 (w.e.f. 20-6-1979).

\* Now "thirty-three" vide the Supreme Court (Number of Judges) Amendment Act, 2019 (37 of 2019), s. 2 (w.e.f. 9-8-2019).

2. Subs. by the Constitution (Ninety-ninth Amendment) Act, 2014, s. 2, for "after consultation with such of the Judges of the Supreme Court and of the High Court in the States as the President may deem necessary for the purpose" (w.e.f. 13-4-2015). This amendment has been struck down by the Supreme Court in the case of Supreme Court Advocates-on-Record Association and another Vs. Union of India in its judgment dated 16-10-2015, AIR 2016 SC 117.

3. The first proviso was omitted by s. 2, *ibid.* The proviso was as under:—  
"Provided that in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of India shall always be consulted:" This amendment has been struck down by the Supreme Court in the case of Supreme Court Advocates-on-Record Association and another Vs. Union of India in its judgment dated 16-10-2015, AIR 2016 SC 117.

4. Subs. by s. 2, *ibid.* for "provided further that" This amendment has been struck down by the Supreme Court in the Supreme Court Advocates-on-Record Association and another Vs Union of India judgment dated 16-10-2015, AIR 2016 SC 117.

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<sup>1</sup>[(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 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.

<sup>2</sup>[**124A. National Judicial Appointments Commission.**—(1) There shall be a Commission to be known as the National Judicial Appointments Commission consisting of the following, namely:—

1. Ins. by the Constitution (Fifteenth Amendment) Act, 1963, s. 2 (w.e.f. 5-10-1963).

2. Ins. by the Constitution (Ninety-ninth Amendment) Act, 2014, s. 3 (w.e.f. 13-4-2015). This amendment has been struck down by the Supreme Court in the case of Supreme Court Advocates-on-Record Association and another Vs Union of India in its judgment dated 16-10-2015, AIR 2016 SC 117.



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(a) the Chief Justice of India, Chairperson, *ex officio*;

(b) two other senior Judges of the Supreme Court next to the Chief Justice of India—Members, *ex officio*;

(c) the Union Minister in charge of Law and Justice—Member, *ex officio*;

(d) two eminent persons to be nominated by the committee consisting of the Prime Minister, the Chief Justice of India and the Leader of Opposition in the House of the People or where there is no such Leader of Opposition, then, the Leader of single largest Opposition Party in the House of the People—Members:

Provided that one of the eminent person shall be nominated from amongst the persons belonging to the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, Minorities or Women:

Provided further that an eminent person shall be nominated for a period of three years and shall not be eligible for renomination.

(2) No act or proceedings of the National Judicial Appointments Commission shall be questioned or be invalidated merely on the ground of the existence of any vacancy or defect in the constitution of the Commission.

**124B. Functions of Commission.**—It shall be the duty of the National Judicial Appointments Commission to—

(a) recommend persons for appointment as Chief Justice of India, Judges of the Supreme Court, Chief Justices of High Courts and other Judges of High Courts;

(b) recommend transfer of Chief Justices and other Judges of High Courts from one High Court to any other High Court; and

(c) ensure that the person recommended is of ability and integrity.

**124C. Power of Parliament to make law.**—Parliament may, by law, regulate the procedure for the appointment of Chief Justice of India and other Judges of the Supreme Court and Chief Justices and other Judges of High Courts and empower the Commission to lay down by regulations the procedure for the discharge of its functions, the manner of selection of persons for appointment and such other matters as may be considered necessary by it.]

**125. Salaries, etc., of Judges.**—<sup>1</sup>[(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.]

(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:

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

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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. Appointment of acting Chief Justice.**—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, 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.

**127. Appointment of *ad hoc* Judges.**—(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, <sup>1</sup>[the National Judicial Appointments Commission on a reference made to it by 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.

**128. Attendance of retired Judges at sittings of the Supreme Court.**—Notwithstanding anything in this Chapter, <sup>2</sup>[the National Judicial Appointments Commission] 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 <sup>3</sup>[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:

1. Subs. by the Constitution (Ninety-ninth Amendment) Act, 2014, s. 4, for "the Chief Justice of India may, with the previous consent of the President" (w.e.f. 13-4-2015). This amendment has been struck down by the Supreme Court in the case of Supreme Court Advocates-on-Record Association and another vs. Union of India in its judgment dated 16-10-2015, AIR 2016 SC 117.

2. Subs. by s. 5, *ibid.*, for "the Chief Justice of India" (w.e.f. 13-4-2015). This amendment has been struck down by the Supreme Court in the case of Supreme Court Advocates-on-Record Association and another Vs. Union of India in its judgment dated 16-10-2015, AIR 2016 SC 117.

3. Ins. by the Constitution (Fifteenth Amendment) Act, 1963, s. 3 (w.e.f. 5-10-1963).

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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.

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

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

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

(a) between the Government of India and one or more States; or

(b) between the Government of India and any State or States on one side and one or more other States on the other; or

(c) between two or more States,

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

<sup>1</sup>[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.]

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

**132. Appellate jurisdiction of the Supreme Court in appeals from High Courts in certain cases.**—(1) An appeal shall lie to the Supreme Court from any judgment, decree or final order of a High Court in the territory of India, whether in a civil, criminal or other proceeding, <sup>3</sup>[if the High Court certifies under article 134A] that the case involves a substantial question of law as to the interpretation of this Constitution.

1. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 5, for the proviso (w.e.f. 1-11-1956).

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

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

## (Part V.—The Union)

<sup>1</sup>(2)\* \* \* \*

(3) Where such a certificate is given, <sup>2\*\*\*</sup> any party in the case may appeal to the Supreme Court on the ground that any such question as aforesaid has been wrongly decided <sup>2\*\*\*</sup>.

*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.

**133. Appellate jurisdiction of the Supreme Court in appeals from High Courts in regard to civil matters.**—<sup>3</sup>[(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 <sup>4</sup>[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.

**134. Appellate jurisdiction of the Supreme Court in regard to criminal matters.**—(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—

(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) <sup>5</sup>[certifies under article 134A] that the case is a fit one for appeal to the Supreme Court:

1. Cl. (2) omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 17, for “if the High Court certifies” (w.e.f. 1-8-1979).

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

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

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

5. Subs. by s. 19, *ibid.*, for “certifies” (w.e.f. 1-8-1979).

## (Part V.—The Union)

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.

<sup>1</sup>[134A. **Certificate for appeal to the Supreme Court.**—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,—

(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 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.]

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

**136. Special leave to appeal by the Supreme Court.**—(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.

**137. Review of judgments or orders by the Supreme Court.**—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.

1. Ins. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 20 (w.e.f. 1-8-1979).

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

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

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

<sup>1</sup>[**139A. Transfer of certain cases.**—<sup>2</sup>(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:

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. Ancillary powers of the Supreme Court.**—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.

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

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

## (Part V.—The Union)

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

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

**142. Enforcement of decrees and orders of the Supreme Court and orders as to discovery, etc.—**(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 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 order<sup>1</sup> 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.

**143. Power of the President to consult the Supreme Court.—**(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 <sup>2\*\*\*\*</sup> the proviso to article 131, refer a dispute of the kind mentioned in the <sup>3</sup>[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.

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

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

**145. Rules of Court, etc.—**(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—

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

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

2. The words, brackets and figure "clause (i) of" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

3. Subs. by s. 29 and Sch., *ibid.*, for "said clause" (w.e.f. 1-11-1956).

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

## (Part V.—The Union)

(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;

<sup>1</sup>[(cc) rules as to the proceedings in the Court under <sup>2</sup>[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.

(2) Subject to the <sup>3</sup>[provisions of <sup>4</sup>\*\*\*\* 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) <sup>5</sup>[<sup>4</sup>\*\*\*\*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:

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

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

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

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

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



## (Part V.—The Union)

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.

**146. Officers and servants and the expenses of the Supreme Court.—**

(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:

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.

## (Part V.—The Union)

**147. Interpretation.**—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.

## CHAPTER V.—COMPTROLLER AND AUDITOR-GENERAL OF INDIA

**148. Comptroller and Auditor-General of India.**—(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.

(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 persons serving in that office, shall be charged upon the Consolidated Fund of India.

**149. Duties and powers of the Comptroller and Auditor-General.—**

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

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

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

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

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

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

3. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

## PART VI

### THE STATES <sup>1\*\*\*</sup>

#### CHAPTER I.—GENERAL

**152. Definition.**—In this Part, unless the context otherwise requires, the expression “State” <sup>2</sup>[does not include the State of Jammu and Kashmir].

#### CHAPTER II.—THE EXECUTIVE

##### *The Governor*

**153. Governors of States.**—There shall be a Governor for each State:

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

**154. Executive power of State.**—(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.

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

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

(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:

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1. The words "IN PART A OF THE FIRST SCHEDULE" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

2. Subs. by s. 29 and Sch. *ibid.*, for "means a State specified in Part A of the First Schedule" (w.e.f. 1-11-1956).

3. Added by s. 6, *ibid.* (w.e.f. 1-11-1956).

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

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

**158. Conditions of Governor's office.**—(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.

(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.

<sup>1</sup>[(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. Oath or affirmation by the Governor.**—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 senior most 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 execute the  
solemnly affirm

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*).”.

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1. Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 7 (w.e.f. 1-11-1956).

**160. Discharge of the functions of the Governor in certain contingencies.**—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.

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

**162. Extent of executive power of State.**—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*

**163. Council of Ministers to aid and advise Governor.**—(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.

(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. Other provisions as to Ministers.**—(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:

Provided that in the States of <sup>1</sup>[Chhattisgarh, Jharkhand], Madhya Pradesh and <sup>2</sup>[Odisha] 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.

<sup>3</sup>[(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<sup>4</sup> 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.]

(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.

1. Subs. by the Constitution (Ninety-fourth Amendment) Act, 2006, s. 2, for "Bihar" (w.e.f. 12-6-2006).

2. Subs. by the Orissa (Alteration of Name) Act, 2011 (15 of 2011), s. 4, for "Orissa" (w.e.f. 1-11-2011).

3. Ins. by the Constitution (Ninety-first Amendment) Act, 2003, s. 3 (w.e.f. 1-1-2004).

4. 7-1-2004, *vide* notification number S.O. 21(E), dated 7-1-2004.

(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*

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

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

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

*Conduct of Government Business*

**166. Conduct of Business of the Government of a State.**—(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.

(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.



$${}^1(4)^* \qquad \qquad \qquad * \qquad \qquad \qquad * \qquad \qquad \qquad * \qquad \qquad \qquad *$$

(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

(a) in the States of <sup>2\*\*\*</sup> 3[Andhra Pradesh], Bihar, <sup>4\*\*\*</sup> 5[Madhya Pradesh], <sup>6\*\*\*</sup> 7[Maharashtra], <sup>8</sup> [Karnataka], <sup>9\*\*\*</sup>

1. 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).
2. The words "Andhra Pradesh," omitted by the Andhra Pradesh Legislative Council (Abolition) Act, 1985 (34 of 1985), s. 4 (w.e.f. 1-6-1985).
3. Ins. by the Andhra Pradesh Legislative Council Act, 2005 (1 of 2006), s. 3 (w.e.f. 30-3-2007).
4. The word "Bombay" omitted by the Bombay Reorganisation Act, 1960 (11 of 1960) s. 20 (w.e.f. 1-5-1960).
5. Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 8 (w.e.f. 1-11-1956).
6. The words "Tamil Nadu," omitted by the Tamil Nadu Legislative Council (Abolition) Act, 1986 (40 of 1986), s. 4 (w.e.f. 1-11-1986).
7. Ins. by the Bombay Reorganisation Act, 1960 (11 of 1960), s. 20 (w.e.f. 1-5-1960).
8. Subs. 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) (w.e.f. 1-11-1956).
9. The word "Punjab," omitted by the Punjab Legislative Council (Abolition) Act, 1969 (46 of 1969), s. 4 (w.e.f. 7-1-1970).

<sup>1</sup>[<sup>2</sup>[Tamil Nadu, Telangana]] <sup>3</sup>[and Uttar Pradesh], two Houses;

(b) in other States, one House.

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

**169. Abolition or creation of Legislative Councils in States.**—(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.

<sup>4</sup>[**170. Composition of the Legislative Assemblies.**—(1) Subject to the provisions of article 333, the Legislative Assembly of each State shall consist of not more than five hundred, and not less than sixty, members chosen by direct election from territorial constituencies in the State.

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

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2. The words "Tamil Nadu" ins. by the Tamil Nadu Legislative Council Act, 2010 (16 of 2010), s. 3 (date to be notified).

2. Subs. by the Andhra Pradesh Reorganisation Act, 2014 (6 of 2014), s. 96, for "Tamil Nadu" (w.e.f. 1-6-2014).

3. Subs. 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).

4. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 9, for art, 170 (w.e.f. 1-11-1956).

<sup>1</sup>[*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:

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 <sup>2</sup>[2026] have been published, be construed as a reference to the <sup>3</sup>[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:

<sup>4</sup>[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 <sup>2</sup>[2026] have been published, it shall not be necessary to <sup>5</sup>[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 <sup>3</sup>[2001] census,

under this clause.]

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

2. Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 5, for "2000" (w.e.f. 21-2-2002).

3. Subs. by the Constitution (Eighty-seventh Amendment) Act, 2003, s. 4, for "1991" (w.e.f. 22-6-2003). The figures "1991" were substituted for the original figures "1971" by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 5 (w.e.f. 21-2-2002).

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

5. Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 5, for certain words (w.e.f. 21-2-2002).

**171. Composition of the Legislative Councils.**—(1) The total number of members in the Legislative Council of a State having such a Council shall not exceed <sup>1</sup>[one-third] of the total number of members in the Legislative Assembly of that State:

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

(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

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1. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 10, for "one-fourth" (w.e.f. 1-11-1956).

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

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

<sup>2</sup>[(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;]

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

2. Subs. by the Constitution (Sixteenth Amendment) Act, 1963, s. 4, for cl. (a) (w.e.f. 5-10-1963).

(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.

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

(2) The Governor may from time to time—

(a) prorogue the House or either House;

(b) dissolve the Legislative Assembly.]

**175. Right of Governor to address and send messages to the House or Houses.**—(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.

**176. Special address by the Governor.**—(1) At the commencement of <sup>2</sup>[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 <sup>3</sup>\*\*\*.

1. Subs. by the Constitution (First Amendment) Act, 1951, s. 8, for art.174 (w.e.f. 18-6-1951).

2. Subs. by s. 9, *ibid.*, for "every session" (w.e.f. 18-6-1951).

3. The words "and for the precedence of such discussion over other business of the House" omitted by s. 9, *ibid.* (w.e.f. 18-6-1951).

**177. Rights of Ministers and Advocate-General as respects the Houses.**—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 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. The Speaker and Deputy Speaker of the Legislative Assembly.**—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.

**179. Vacation and resignation of, and removal from, the offices of Speaker and Deputy Speaker.**—A member holding office as Speaker or Deputy Speaker of an Assembly—

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

(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.

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

**182. The Chairman and Deputy Chairman of the Legislative Council.**—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.

**183. Vacation and resignation of, and removal from, the offices of Chairman and Deputy Chairman.**—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 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. Power of the Deputy Chairman or other person to perform the duties of the office of, or to act as, Chairman.**—(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.



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

(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.

**186. Salaries and allowances of the Speaker and Deputy Speaker and the Chairman and Deputy Chairman.**—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.

**187. Secretariat of State Legislature.**—(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*

**188. Oath or affirmation by members.**—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.

**189. Voting in Houses, power of Houses to act notwithstanding vacancies and quorum.**—(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.

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.

<sup>1</sup>[(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.]

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1. Omitted by the Constitution (Forty-second Amendment) Act, 1976, s. 31 (date not notified). This amendment was omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 45 (w.e.f. 20-6-1979).

*Disqualifications of Members*

**190. Vacation of seats.**—(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.

(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 rules<sup>1</sup> 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—

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

<sup>3</sup>[(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:

<sup>4</sup>[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.

1. See the Prohibition of Simultaneous Membership Rules, 1950 published by the Ministry of Law Notification number F. 46/50-C, dated the 26th January, 1950, Gazette of India, Extraordinary, p. 678.

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

3 Subs. by the Constitution (Thirty-third Amendment) Act, 1974, s. 3 (w.e.f. 19-5-1974).

4. Ins. by s. 3, *ibid.* (w.e.f. 19-5-1974).

**191. Disqualifications for membership.**—(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—

<sup>1</sup>[(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;

(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.

<sup>2</sup>[*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.

<sup>3</sup>[(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.]

<sup>4</sup>[**192. Decision on questions as to disqualifications of members.**—(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.

1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 32 to read as "(a) if he holds any such office of profit under the Government of India or the Government of any State specified in the First Schedule as is declared by Parliament by law to disqualify its holder" (date not notified). This amendment was omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 45 (w.e.f. 20-6-1979).

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

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

4. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 33, for art. 192 (w.e.f. 3-1-1977) and further subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 25, for art. 192 (w.e.f. 20-6-1979).

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

**194. Powers, privileges, etc., of the Houses of Legislatures and of the members and committees thereof.**—(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.

<sup>1</sup>[(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

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1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 34 to read as follows :

"(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 those of that House, and of its members and Committees, at the commencement of section 34 of the Constitution (Forty-second Amendment) Act, 1976, and as may be evolved by such House of the House of the People, and of its members and committees where such House is the Legislative Assembly and in accordance with those of the Council of States, and of its members and committees where such House is the Legislative Council." (date not notified). This amendment was omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 45 (w.e.f. 19-6-1979)."

by the Legislature by law, and, until so defined, <sup>1</sup>[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.

**195. Salaries and allowances of members.**—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, 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. Provisions as to introduction and passing of Bills.**—(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.

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

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

(Part VI.—The States)

(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;

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.

**198. Special procedure in respect of Money Bills.**—(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 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. Definition of “Money Bills”.—**(1) For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely:—

(a) the imposition, abolition, remission, alteration or regulation of any tax;

(b) the regulation of the borrowing of money or the giving of any guarantee by the 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;

(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.

**200. Assent to Bills.**—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, 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. Bills reserved for consideration.**—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:

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. Annual financial statement.**—(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”.

(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

(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.

**203. Procedure in Legislature with respect to estimates.**—(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.

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

**204. Appropriation Bills.**—(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—

(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. Supplementary, additional or excess grants.**—(1) The Governor shall—

(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

(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.

**206. Votes on account, votes of credit and exceptional grants.—**(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 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. Special provisions as to financial Bills.**—(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:

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. Rules of procedure.**—(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.

(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

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\* The brackets and words "(including the quorum to constitute a meeting of the House)" ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 35 (date not notified). This amendment was omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 45 (w.e.f. 20-6-1979).

the Legislative Council, may make rules as to the procedure with respect to communications between the two Houses.

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

**210. Language to be used in the Legislature.**—(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 of a period of fifteen years from the commencement of this Constitution, have effect as if the words “or in English” were omitted therefrom:

<sup>1</sup>[Provided that in relation to the <sup>2</sup>[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:]

<sup>3</sup>[Provided further that in relation to the <sup>4</sup>[Legislatures of the States of <sup>5</sup>[Arunachal Pradesh, Goa and Mizoram]], this clause shall have effect as if for

1. Ins. by the State of Himachal Pradesh Act, 1970 (53 of 1970), s. 46 (w.e.f. 25-1-1971).

2. Subs. 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).

3. Ins. by the State of Mizoram Act, 1986 (34 of 1986), s. 39 (w.e.f. 20-2-1987).

4. Subs. 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).

5. Subs. 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).

the words "fifteen years" occurring therein, the words "forty years" were substituted.]

**211. Restriction on discussion in the Legislature.**—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.

**212. Courts not to inquire into proceedings of the Legislature.**—(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.

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

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 of a State having a Legislative Council are summoned to reassemble on different dates, the period of six weeks shall be reckoned from the later of those dates for the purposes of this clause.

(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 State assented to by the Governor, it shall be void:

Provided that, for the purposes of the provisions of this Constitution relating to the effect of an Act of the Legislature of a State which is repugnant to an Act of Parliament or an existing law with respect to a matter enumerated in the Concurrent List, 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 State which has been reserved for the consideration of the President and assented to by him.

<sup>1</sup>(4)\*

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1. Cl. (4) was ins. by the Constitution (Thirty-eighth Amendment) Act, 1975, s. 3 (with retrospective effect) and omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 27 (w.e.f. 20-6-1979).



**214. High Courts for States.**—<sup>1\*\*\*</sup> There shall be a High Court for each State.

$${}^2(3)^* \quad * \quad * \quad *$$

**216. Constitution of High Courts.**—Every High Court shall consist of a Justice and such other Judges as the President may from time to time it necessary to appoint.

$3^*$                        $*$                        $*$                        $*$                        $*$

Provided that—

(b) a Judge may be removed from his office by the President in the

6. Subs. by the Constitution (Fifteenth Amendment) Act, 1963, s. 4(a), for "sixty years" (w.e.f. 5-10-1963).

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<sup>1\*\*\*</sup> or of two or more such Courts in succession.<sup>2\*\*\*</sup>

<sup>2</sup>(c)\* \* \* \* \*

*Explanation.*—For the purposes of this clause—

<sup>3</sup>[(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;]

<sup>4</sup>[(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<sup>5</sup> [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

1. The words "in any State specified in the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

2. The 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).

3. Ins. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 28 (w.e.f. 20-6-1979).

4. Cl. (a) re-lettered as cl. (aa) by the Constitution (Forty-fourth Amendment) Act, 1978, s. 28 (w.e.f. 20-6-1979).

5. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 36, for "has held judicial office" (w.e.f. 3-1-1977).

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.

<sup>1</sup>[(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. Application of certain provisions relating to Supreme Court to High Courts.**—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.

**219. Oath or affirmation by Judges of High Courts.**—Every person appointed to be a Judge of a High Court <sup>2\*\*\*</sup> 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.

<sup>3</sup>[**220. Restriction on practice after being a permanent Judge.**—No person who, after the commencement of this Constitution, has held office as a permanent Judge of a High Court shall plead or act in any court or before any authority in India except the Supreme Court and the other High Courts.

*Explanation.*—In this article, the expression “High Court” does not include a High Court for a State specified in Part B of the First Schedule as it existed before the commencement<sup>4</sup> of the Constitution (Seventh Amendment) Act, 1956.]

**221. Salaries, etc., of Judges.**—<sup>5</sup>[(1) There shall be paid to the Judges of each High Court such salaries as may be determined by Parliament by law

1. Ins. by the Constitution (Fifteenth Amendment) Act, 1963, s. 4(b), (with retrospective effect).

2. The words “in a State” omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

3. Subs. by s. 13, *ibid.* (w.e.f. 1-11-1956).

4. 1st November, 1956.

5. Subs. by the Constitution (Fifty-fourth Amendment) Act, 1986, s. 3, for clause (1) (w.e.f. 1-4-1986).

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 to leave of absence or pension shall be varied to his disadvantage after his appointment.

**222. Transfer of a Judge from one High Court to another.**—(1) The President may, <sup>1</sup>[on the recommendation of the National Judicial Appointments Commission referred to in article 124A], transfer a Judge from one High Court to any other High Court <sup>2\*\*\*</sup>.

<sup>3</sup>[(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. Appointment of acting Chief Justice.**—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.

<sup>4</sup>[**224. Appointment of additional and acting Judges.**—(1) If by reason of any temporary increase in the business of a High Court or by reason

1. Subs. by the Constitution (Ninety-ninth Amendment) Act, 2014, s. 7, for "after consultation with the Chief Justice of India" (w.e.f. 13-4-2015). This amendment has been struck down by the Supreme Court in the case of *Supreme Court Advocates-on-Record Association and Another Vs. Union of India* in its judgment dated 16-10-2015, AIR 2016 SC 117.

2. The words "within the territory of India" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 14 (w.e.f. 1-11-1956).

3. Ins. by the Constitution (Fifteenth Amendment) Act, 1963, s. 5 (w.e.f. 5-10-1963). Original cl. (2) was omitted by the Constitution (Seventh Amendment) Act, 1956, s. 14 (w.e.f. 1-11-1956).

4. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 15 for art. 224 (w.e.f. 1-11-1956).

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, <sup>1</sup>[the President may, in consultation with the National Judicial Appointments Commission, appoint] duly qualified persons to be additional Judges of the Court for such period not exceeding two years as he may specify.

(2) When any Judge of a High Court other than the Chief Justice is by reason of absence or for any other reason unable to perform the duties of his office or is appointed to act temporarily as Chief Justice, <sup>1</sup>[the President may, in consultation with the National Judicial Appointments Commission, 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 <sup>2</sup>[sixty-two years].]

<sup>3</sup>[**224A. Appointment of retired Judges at sittings of High Courts.**— Notwithstanding anything in this Chapter, <sup>4</sup>[the National Judicial Appointments Commission on a reference made to it by the Chief Justice of a High Court for any State, may with the previous consent of the President], request any person who has held the office of a Judge of that Court or of any other High Court to sit and act as a Judge of the High Court for that State, and every such person so requested shall, while so sitting and acting, be entitled to such allowances as the President may by order determine and have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a Judge of that High Court:

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.]

1. Subs. by the Constitution (Ninety-ninth Amendment) Act, 2014, s. 8, for "the President may appoint" (w.e.f. 13-4-2015). This amendment has been struck down, by the Supreme Court in the case of Supreme Court *Advocates-on-Record Association and Another Vs. Union of India* in its judgment, dated 16-10-2015, AIR 2016 SC 117.

2 Subs. by the Constitution (Fifteenth Amendment) Act, 1963, s. 6, for "sixty years" (w.e.f. 5-10-1963).

3. Ins. by s. 7, *ibid.* (w.e.f. 5-10-1963).

4. Subs. by the Constitution (Ninety-ninth Amendment) Act, 2014, s. 9, for "the Chief Justice of a High Court for any State may at any time, with the previous consent of the President" (w.e.f. 13-4-2015). This amendment has been struck down by the Supreme Court in the case of Supreme Court *Advocates-on-Record Association and Another Vs. Union of India* in its judgment dated 16-10-2015, AIR 2016 SC 117.

**225. Jurisdiction of existing High Courts.**—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:

<sup>1</sup>[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.]

<sup>2</sup>[**226. Power of High Courts to issue certain writs.**—(1) Notwithstanding anything in article 32 <sup>3\*\*\*</sup>, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including <sup>4</sup>[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,

1. Omitted by the Constitution (Forty-second Amendment) Act, 1976, s. 37 (w.e.f. 1-2-1977) and subsequently ins. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 29 (w.e.f. 20-6-1979).

2. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 38 for art. 226 (w.e.f. 1-2-1977).

3. The 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).

4. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 30, for the portion beginning with "writs in the nature of *habeas corpus*, *mandamus*, *prohibition*, *quo warranto* and *certiorari*, or any of them" and ending with "such illegality has resulted in substantial failure of justice." (w.e.f. 1-8-1979).

notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories.

<sup>1</sup>[(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.]

<sup>2</sup>[(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.]

<sup>3</sup>[**226A.** *Constitutional validity of Central laws not to be considered in proceedings under article 226.*].—Omitted by the Constitution (Forty-third Amendment) Act, 1977, s. 8 (w.e.f. 13-4-1978).

**227. Power of superintendence over all courts by the High Court.—**

<sup>4</sup>[(1) Every High Court shall have superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction.]

1. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s.30, for cls. (3), (4), (5) and (6) (w.e.f. 1-8-1979).

2. Cl. (7) renumbered as cl. (4) by the Constitution (Forty-fourth Amendment) Act, 1978, s. 30 (w.e.f. 1-8-1979).

3. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 39 (w.e.f. 1-2-1977).

4. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 40, for cl. (1) (w.e.f. 1-2-1977) and further subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 31, for cl. (1) (w.e.f. 20-6-1979).

(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.

<sup>1</sup>(5)\* \* \* \*

**228. Transfer of certain cases to High Court.**—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, <sup>2</sup>[it shall withdraw the case and <sup>3</sup>\*\*\* may—]

- (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.

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1. Cl. (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).

2. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 41, for "it shall withdraw the case and may—" (w.e.f. 1-2-1977).

3. The words, figures and letter, "subject to the provisions of article 131A," omitted by the Constitution (Forty-third Amendment) Act, 1977, s. 9 (w.e.f. 13-4-1978).



<sup>1</sup>[**228A.** *Special provisions as to disposal of questions relating to constitutional validity of State laws.*].—Omitted by the Constitution (Forty-third Amendment) Act, 1977, s. 10 (w.e.f. 13-4-1978).

**229. Officers and servants and the expenses of High Courts.**—(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:

Provided that the Governor of the State <sup>2\*\*\*</sup> 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 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 <sup>2\*\*\*</sup>.

(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.

<sup>3</sup>[**230. Extension of jurisdiction of High Courts to Union territories.**—(1) Parliament may by law extend the jurisdiction of a High Court to, or exclude the jurisdiction of a High Court from, any Union territory.

(2) Where the High Court of a State exercises jurisdiction in relation to a Union territory,—

(a) nothing in this Constitution shall be construed as empowering the Legislature of the State to increase, restrict or abolish that jurisdiction; and

(b) the reference in article 227 to the Governor shall, in relation to

1. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 42 (w.e.f. 1-2-1977).

2. The words "in which the High Court has its principal seat" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

3. Subs. by s. 16, *ibid.*, for arts. 230, 231 and 232 (w.e.f. 1-11-1956).

any rules, forms or tables for subordinate courts in that territory, be construed as a reference to the President.

**231. Establishment of a common High Court for two or more States.**—(1) Notwithstanding anything contained in the preceding provisions of this Chapter, Parliament may by law establish a common High Court for two or more States or for two or more States and a Union territory.

(2) In relation to any such High Court,—

<sup>1</sup>(a)\* \* \* \* \*

(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.]

**[232. Interpretation.**—Articles 230, 231 and 232 subs. by articles 230 and 231 by the Constitution (Seventh Amendment) Act, 1956, s. 16 (w.e.f. 1-11-1956)].

#### CHAPTER VI.—SUBORDINATE COURTS

**233. Appointment of district judges.**—(1) Appointments of persons to

1. Sub-clause (a) was omitted by the Constitution (Ninety-ninth Amendment) Act, 2014, s. 10 (w.e.f. 13-4-2015). This amendment has been struck down by the Supreme Court *vide its order the 16-10-2015 in the Supreme Court Advocates-on-Record Association and Another Vs. Union of India reported AIR 2016 SC 117*. Before amendment, sub-clause (a) was as under:—

"(a) the reference in article 217 to the Governor of the State shall be construed as reference to the Governors of all the States in relation to which the High Court exercises jurisdiction".

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.

(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.

<sup>1</sup>[**233A. Validation of appointments of, and judgments, etc., delivered by, certain district judges.**—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, made at any time before the commencement of the Constitution (Twentieth Amendment) Act, 1966, otherwise than in accordance with the provisions of article 233 or article 235 shall be deemed to be illegal or void or ever to have become illegal or void by reason only of the fact that such appointment, posting, promotion or transfer was not made in accordance with the said provisions;

(b) no jurisdiction exercised, no judgment, decree, sentence or order passed or made, and no other act or proceeding done or taken, before the commencement of the Constitution (Twentieth Amendment) Act, 1966 by, or before, any person appointed, posted, promoted or transferred as a district judge in any State otherwise than in accordance with the provisions of article 233 or article 235 shall be deemed to be illegal or invalid or 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.]

**234. Recruitment of persons other than district judges to the judicial service.**—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.

1. Ins. by the Constitution (Twentieth Amendment) Act, 1966, s. 2 (w.e.f. 22-12-1966).

**235. Control over subordinate courts.**—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.

**236. Interpretation.**—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 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. Application of the provisions of this Chapter to certain class or classes of magistrates.**—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.

## **•PART VII**

*[The States in Part B of the First Schedule].*

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\* Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956)

## PART VIII

### <sup>1</sup>[THE UNION TERRITORIES]

<sup>2</sup>[**239. Administration of Union territories.**—(1) Save as otherwise provided by Parliament by law, every Union territory shall be administered by the President acting, to such extent as he thinks fit, through an administrator to be appointed by him with such designation as he may specify.

(2) Notwithstanding anything contained in Part VI, the President may appoint the Governor of a State as the administrator of an adjoining Union territory, and where a Governor is so appointed, he shall exercise his functions as such administrator independently of his Council of Ministers.]

<sup>3</sup>\*[**239A. Creation of local Legislatures or Council of Ministers or both for certain Union territories.**—(1) Parliament may by law create <sup>4</sup>[for the Union territory of <sup>5</sup>[Puducherry]]—

(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.]

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1. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 17, for the heading "THE STATES IN PART C OF THE FIRST SCHEDULE" (w.e.f. 1-11-1956).

2. Subs. by s. 17, *ibid.*, for art. 239 (w.e.f. 1-11-1956).

3. Ins. by the Constitution (Fourteenth Amendment) Act, 1962, s. 4 (w.e.f. 28-12-1962).

4. Subs. 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).

5. Subs. by the Pondicherry (Alteration of Name) Act, 2006 (44 of 2006), s. 4, for "Pondicherry" (w.e.f. 1-10-2006).

\* Article 239A has been made applicable to Union Territory of Jammu and Kashmir by the Jammu and Kashmir Reorganisation Act, 2019 (34 of 2019) S.13 (w.e.f. 31-10-2019).

<sup>1</sup>[**239AA. Special provisions with respect to Delhi.**—(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 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.

<sup>2</sup>[(ba) Seats shall be reserved for women in the Legislative Assembly of the National Capital Territory of Delhi.

(bb) As nearly as may be, one-third of the seats reserved for the Scheduled Castes in the Legislative Assembly of the National Capital Territory of Delhi shall be reserved for women.

(bc) As nearly as may be, one-third of the total number of seats to be filled by direct election in the Legislative Assembly of the National Capital Territory of Delhi (including the numbers of seats reserved for women belonging to the Scheduled Castes) shall be reserved for women in such manner as Parliament may by law determine.]

(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.

1. Arts 239AA and 239 AB ins. by the Constitution (Sixty-ninth Amendment) Act, 1991, s. 2 (w.e.f. 1-2-1992).

2. ins. by the Constitution (One-hundred and Sixth Amendment) Act, 2023, s. 2 (date yet to be notified).

(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 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 percent. 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 Ministers shall hold office during the pleasure of the President.

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

<sup>1</sup>[(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.

<sup>2</sup>[(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 <sup>3</sup>[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.

**239AB. Provision in case of failure of constitutional machinery.**—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 provisions of any law made in pursuance of that

1. Subs. by the Constitution (Seventieth Amendment) Act, 1992, s. 3, for “(7)” (w.e.f. 21-12-1991).

2. Ins. by s. 3, *ibid.* (w.e.f. 21-12-1991).

3. Subs. by the Pondicherry (Alteration of Name) Act, 2006 (44 of 2006), s. 4, for “Pondicherry” (w.e.f. 1-10-2006).

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.]

<sup>1</sup>[**239B. Power of administrator to promulgate Ordinances during recess of Legislature.**—(1) If at any time, except when the Legislature of <sup>2</sup>[the Union territory of <sup>3</sup>[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:

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 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

1. Ins. by the Constitution (Twenty-seventh Amendment) Act, 1971, s. 3 (w.e.f. 30-12-1971).

2. Subs. by the Goa, Daman and Diu Reorganisation Act, 1987 (18 of 1987) s. 63, for "a Union territory referred to in clause (1) article 239A" (w.e.f. 30-5-1987).

3. Subs. by the Pondicherry (Alteration of Name) Act, 2006 (44 of 2006), s. 4, for "Pondicherry" (w.e.f. 1-10-2006).

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.]

<sup>1</sup>(4)\* \* \* \*  
<sup>2</sup>[**240. Power of President to make regulations for certain Union territories.**—(1) The President may make regulations for the peace, progress and good government of the Union territory of—

(a) the Andaman and Nicobar Islands;

<sup>3</sup>[(b) Lakshadweep;]

<sup>4</sup>[(c) Dadra and Nagar Haveli and Daman and Diu;]

<sup>5</sup>[(d) \*\*\*\*;]

<sup>6</sup>[(e) <sup>7</sup>[Puducherry];]

<sup>8</sup>(f) \* \* \*

<sup>9</sup>(g) \* \* \*

<sup>10</sup>[Provided that when any body is created under article 239A to function as a Legislature for the Union territory of <sup>7</sup>[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:]

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1. Clause (4) ins. by the Constitution (Thirty-eighth Amendment) Act, 1975, s. 4 (with retrospective effect). This amendment was omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 32 (w.e.f. 20-6-1979).
  2. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 17, for art. 240 (w.e.f. 1-11-1956).
  3. Subs. 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).
  4. Subs. by the Dadra and Nagar Haveli and Daman and Diu (Merger of Union territories) Act, 2019 (44 of 2019) s. 4(i) (w.e.f. 26-1-2020) for entry (c) which was ins. by the Constitution (Tenth Amendment) Act, 1961, s.3 (w.e.f. 11-8-1961).
  5. Omitted by the Dadra and Nagar Haveli and Daman and Diu (Merger of Union territories) Act, 2019 (44 of 2019) s. 4(ii) (w.e.f. 26-1-2020).
  6. Ins. by the Constitution (Fourteenth Amendment) Act, 1962, s. 5 (w.e.f. 16-8-1962).
  7. Subs. by the Pondicherry (Alteration of Name) Act, 2006 (44 of 2006), s. 4 for "Pondicherry" (w.e.f. 1-10-2006).
  8. The entry (f) relating to Mizoram omitted by the State of Mizoram Act, 1986 (34 of 1986), s. 39 (w.e.f. 20-2-1987).
  9. The 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).
  10. Ins. by the Constitution (Fourteenth Amendment) Act, 1962, s. 5 (w.e.f. 28-12-1962).

<sup>1</sup>[Provided further that whenever the body functioning as a Legislature for the Union territory of <sup>2</sup>[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 <sup>3</sup>[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. High Courts for Union territories.**—(1) Parliament may by law constitute a High Court for a <sup>4</sup>[Union territory] or declare any court in any <sup>5</sup>[such territory] to be a High Court for all or any of the purposes of this Constitution.

(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.

<sup>6</sup>[(3) Subject to the provisions of this Constitution and to the provisions of any law of the appropriate Legislature made by virtue of powers conferred on that Legislature by or under this Constitution, every High Court exercising jurisdiction immediately before the commencement of the Constitution (Seventh Amendment) Act, 1956, in relation to any Union territory shall continue to exercise such jurisdiction in relation to that territory after such commencement.

(4) Nothing in this article derogates from the power of Parliament to extend or exclude the jurisdiction of a High Court for a State to, or from, any Union territory or part thereof.]

**242.** [Coorg.].—*Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.* (w.e.f. 1-11-1956).

1. Ins. by the Constitution (Twenty-seventh Amendment) Act, 1971, s. 4 (w.e.f. 15-2-1972).

2. Subs. by the Pondicherry (Alteration of Name) Act, 2006 (44 of 2006), s. 4, for "Pondicherry" (w.e.f. 1-10-2006).

3. Subs. by the Constitution (Twenty-seventh Amendment) Act, 1971, s. 4, for "any existing law" (w.e.f. 15-2-1972).

4. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch., for "State specified in Part C of the First Schedule" (w.e.f. 1-11-1956).

5. Subs. by s. 29. and Sch., *ibid.*, for "such State" (w.e.f. 1-11-1956).

6. Subs. by s. 29, and Sch., *ibid.*, for cls. (3) and (4) (w.e.f. 1-11-1956).

<sup>1</sup>[PART IX  
THE PANCHAYATS

**243. Definitions.**—In this Part, unless the context otherwise requires,—

- (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. Gram Sabha.**—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.

**243B. Constitution of Panchayats.**—(1) There shall be constituted in every State, Panchayats at the village, intermediate and district levels in accordance with the provisions of this Part.

(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.

**243C. Composition of Panchayats.**—(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:

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1. Original Part IX relating to "The territories in Part D of the First Schedule and other territories not specified in that Schedule" was omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956) and subsequently ins. by the Constitution (Seventy-third Amendment) Act, 1992, s. 2 (w.e.f. 24-4-1993).

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 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. Reservation of seats.**—(1) Seats shall be reserved for—

- (a) the Scheduled Castes; and
- (b) the Scheduled Tribes,

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 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.

**243E. Duration of Panchayats, etc.**—(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.

(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. Disqualifications for membership.**— (1) A person shall be disqualified for being chosen as, and for being, a member of a Panchayat—

(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. Powers, authority and responsibilities of Panchayats.—**

Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow the 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.

**243H. Powers to impose taxes by, and Funds of, the Panchayats.—**

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.

**243I. Constitution of Finance Commission to review financial position.—**(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 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;

## (Part IX.—The Panchayats)

(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. Audit of accounts of Panchayats.**—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.

**243K. Elections to the Panchayats.**—(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 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.

**243L. Application to Union territories.**—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.

**243M. Part not to apply to certain areas.**—(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 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.

<sup>1</sup>[(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. Continuance of existing laws and Panchayats.—**

Notwithstanding anything in this Part, any provision of any law relating to Panchayats in force in a 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.

**243O. Bar to interference by courts in electoral matters.—**

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.

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1. Ins. by the Constitution (Eighty-third Amendment) Act, 2000, s. 2 (w.e.f. 8-9-2000).

<sup>1</sup>[PART IXA  
THE MUNICIPALITIES

**243P. Definitions.**—In this Part, unless the context otherwise requires,—

(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. Constitution of Municipalities.**—(1) There shall be constituted in every State,—

(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,

in accordance with the provisions of this Part:

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1. Part IXA ins. by the Constitution (Seventy-fourth Amendment) Act, 1992, s. 2 (w.e.f. 1-6-1993).

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.

**243R. Composition of Municipalities.**—(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:

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. Constitution and composition of Wards Committees, etc.—(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.

(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. Reservation of seats.—(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.

(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.

**243U. Duration of Municipalities, etc.**—(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).

(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. Disqualifications for membership.**—(1) A person shall be disqualified for being chosen as, and for being, a member of a Municipality—

(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. Powers, authority and responsibilities of Municipalities, etc.**—Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow—

(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, 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.

**243X. Power to impose taxes by, and Funds of, the Municipalities.**—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.

**243Y. Finance Commission.**—(1) The Finance Commission constituted under article 243I 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, 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. Audit of accounts of Municipalities.**—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.

**243ZA. Elections to the Municipalities.**—(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.

(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. Application to Union territories.**—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.

**243ZC. Part not to apply to certain areas.**—(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.

**243ZD. Committee for district planning.**—(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 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. Committee for Metropolitan planning.**—(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.

(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 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 coordinated 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.

**243ZF. Continuance of existing laws and Municipalities.—**

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:

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. Bar to interference by courts in electoral matters.—**

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 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.]

<sup>1</sup>[PART IXB

THE CO-OPERATIVE SOCIETIES

**243ZH. Definitions.**—In this Part, unless the context otherwise requires,—

(a) “authorised person” means a person referred to as such in article 243ZQ;

(b) “board” means the board of directors or the governing body of a co-operative society, by whatever name called, to which the direction and control of the management of the affairs of a society is entrusted to;

(c) “co-operative society” means a society registered or deemed to be registered under any law relating to co-operative societies for the time being in force in any State;

(d) “multi-State co-operative society” means a society with objects not confined to one State and registered or deemed to be registered under any law for the time being in force relating to such co-operatives;

(e) “Office bearer” means a President, Vice-President, Chairperson, Vice-Chairperson, Secretary or Treasurer, of a co-operative society and includes any other person to be elected by the board of any co-operative society;

(f) “Registrar” means the Central Registrar appointed by the Central Government in relation to the multi-State co-operative societies and the Registrar for co-operative societies appointed by the State Government under the law made by the Legislature of a State in relation to co-operative societies;

(g) “State Act” means any law made by the Legislature of a State;

(h) “State level co-operative society” means a co-operative society having its area of operation extending to the whole of a State and defined as such in any law made by the Legislature of a State.

**243ZI. Incorporation of co-operative societies.**—Subject to the provisions of this Part, the Legislature of a State may, by law, make provisions with respect to the incorporation, regulation and winding up of co-operative societies based on the principles of voluntary formation, democratic member-control, member-economic participation and autonomous functioning.

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1. Part IXB ins. by the Constitution (Ninety-seventh Amendment) Act, 2011, s. 4 (w.e.f. 15-2-2012).

**243ZJ. Number and term of members of board and its office bearers.**—(1) The board shall consist of such number of directors as may be provided by the Legislature of a State, by law:

Provided that the maximum number of directors of a co-operative society shall not exceed twenty-one:

Provided further that the Legislature of a State shall, by law, provide for the reservation of one seat for the Scheduled Castes or the Scheduled Tribes and two seats for women on board of every co-operative society consisting of individuals as members and having members from such class or category of persons.

(2) The term of office of elected members of the board and its office bearers shall be five years from the date of election and the term of office bearers shall be coterminous with the term of the board:

Provided that the board may fill a casual vacancy on the board by nomination out of the same class of members in respect of which the casual vacancy has arisen, if the term of office of the board is less than half of its original term.

(3) The Legislature of a State shall, by law, make provisions for co-option of persons to be members of the board having experience in the field of banking, management, finance or specialisation in any other field relating to the objects and activities undertaken by the co-operative society, as members of the board of such society:

Provided that the number of such co-opted members shall not exceed two in addition to twenty-one directors specified in the first proviso to clause (1):

Provided further that such co-opted members shall not have the right to vote in any election of the co-operative society in their capacity as such member or to be eligible to be elected as office bearers of the board:

Provided also that the functional directors of a co-operative society shall also be the members of the board and such members shall be excluded for the purpose of counting the total number of directors specified in the first proviso to clause (1).



## (Part IXB.—Co-operative Societies)

**243ZK. Election of members of board.**—(1) Notwithstanding anything contained in any law made by the Legislature of a State, the election of a board shall be conducted before the expiry of the term of the board so as to ensure that the newly elected members of the board assume office immediately on the expiry of the office of members of the outgoing board.

(2) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to a co-operative society shall vest in such an authority or body, as may be provided by the Legislature of a State, by law:

Provided that the Legislature of a State may, by law, provide for the procedure and guidelines for the conduct of such elections.

**243ZL. Supersession and suspension of board and interim management.**—(1) Notwithstanding anything contained in any law for the time being in force, no board shall be superseded or kept under suspension for a period exceeding six months:

Provided that the board may be superseded or kept under suspension in a case—

- (i) of its persistent default; or
- (ii) of negligence in the performance of its duties; or
- (iii) the board has committed any act prejudicial to the interests of the co-operative society or its members; or
- (iv) there is stalemate in the constitution or functions of the board; or
- (v) the authority or body as provided by the Legislature of a State, by law, under clause (2) of article 243ZK, has failed to conduct elections in accordance with the provisions of the State Act:

Provided further that the board of any such co-operative society shall not be superseded or kept under suspension where there is no Government shareholding or loan or financial assistance or any guarantee by the Government:

Provided also that in case of a co-operative society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949 (10 of 1949) shall also apply:

## (Part IXB.—Co-operative Societies)

Provided also that in case of a co-operative society, other than a multi-State co-operative society, carrying on the business of banking, the provisions of this clause shall have the effect as if for the words “six months”, the words “one year” had been substituted.

(2) In case of supersession of a board, the administrator appointed to manage the affairs of such co-operative society shall arrange for conduct of elections within the period specified in clause (1) and handover the management to the elected board.

(3) The Legislature of a State may, by law, make provisions for the conditions of service of the administrator.

**243ZM. Audit of accounts of co-operative societies.**—(1) The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the co-operative societies and the auditing of such accounts at least once in each financial year.

(2) The Legislature of a State shall, by law, lay down the minimum qualifications and experience of auditors and auditing firms that shall be eligible for auditing accounts of the co-operative societies.

(3) Every co-operative society shall cause to be audited by an auditor or auditing firms referred to in clause (2) appointed by the general body of the co-operative society:

Provided that such auditors or auditing firms shall be appointed from a panel approved by a State Government or an authority authorised by the State Government in this behalf.

(4) The accounts of every co-operative society shall be audited within six months of the close of the financial year to which such accounts relate.

(5) The audit report of the accounts of an apex co-operative society, as may be defined by the State Act, shall be laid before the State Legislature in the manner, as may be provided by the State Legislature, by law.

**243ZN. Convening of general body meetings.**—The Legislature of a State may, by law, make provisions that the annual general body meeting of every co-operative society shall be convened within a period of six months of close of the financial year to transact the business as may be provided in such law.

## (Part IXB.—Co-operative Societies)

**243ZO. Right of a member to get information.**—(1) The Legislature of a State may, by law, provide for access to every member of a co-operative society to the books, information and accounts of the co-operative society kept in regular transaction of its business with such member.

(2) The Legislature of a State may, by law, make provisions to ensure the participation of members in the management of the co-operative society providing minimum requirement of attending meetings by the members and utilising the minimum level of services as may be provided in such law.

(3) The Legislature of a State may, by law, provide for co-operative education and training for its members.

**243ZP. Returns.**—Every co-operative society shall file returns, within six months of the close of every financial year, to the authority designated by the State Government including the following matters, namely:—

- (a) annual report of its activities;
- (b) its audited statement of accounts;
- (c) plan for surplus disposal as approved by the general body of the co-operative society;
- (d) list of amendments to the bye-laws of the co-operative society, if any;
- (e) declaration regarding date of holding of its general body meeting and conduct of elections when due; and
- (f) any other information required by the Registrar in pursuance of any of the provisions of the State Act.

**243ZQ. Offences and penalties.**—(1) The Legislature of a State may, by law, make provisions for the offences relating to the co-operative societies and penalties for such offences.

(2) A law made by the Legislature of a State under clause (1) shall include the commission of the following act or omission as offences, namely:—

- (a) a co-operative society or an officer or member thereof wilfully makes a false return or furnishes false information, or any person wilfully not furnishes any information required from him by a person authorised in this behalf under the provisions of the State Act;

## (Part IXB.—Co-operative Societies)

(b) any person wilfully or without any reasonable excuse disobeys any summons, requisition or lawful written order issued under the provisions of the State Act;

(c) any employer who, without sufficient cause, fails to pay to a co-operative society amount deducted by him from its employee within a period of fourteen days from the date on which such deduction is made;

(d) any officer or custodian who wilfully fails to handover custody of books, accounts, documents, records, cash, security and other property belonging to a co-operative society of which he is an officer or custodian, to an authorised person; and

(e) whoever, before, during or after the election of members of the board or office bearers, adopts any corrupt practice.

**243ZR. Application to multi-State co-operative societies.**—The provisions of this Part shall apply to the multi-State co-operative societies subject to the modification that any reference to “Legislature of a State”, “State Act” or “State Government” shall be construed as a reference to “Parliament”, “Central Act” or “the Central Government” respectively.

**243ZS. Application to Union territories.**—The provisions of this Part shall apply to the Union territories and shall, in their application to a Union territory, having no Legislative Assembly as if the references to the Legislature of a State were a reference to the administrator thereof appointed under article 239 and, in relation to a Union territory having a Legislative Assembly, to that Legislative Assembly:

Provided that the President may, by notification in the Official Gazette, direct that the provisions of this Part shall not apply to any Union territory or part thereof as he may specify in the notification.

**243ZT. Continuance of existing laws.**— Notwithstanding anything in this Part, any provision of any law relating to co-operative societies in force in a State immediately before the commencement of the Constitution (Ninety-seventh Amendment) Act, 2011, 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 less.]

## PART X

### THE SCHEDULED AND TRIBAL AREAS

**244. Administration of Scheduled Areas and Tribal Areas.**—(1) The provisions of the Fifth Schedule shall apply to the administration and control of the Scheduled Areas and Scheduled Tribes in any State <sup>1\*\*\*</sup> other than <sup>2</sup>[the States of Assam, <sup>3</sup>, <sup>4</sup>[Meghalaya, Tripura and Mizoram]]].

(2) The provisions of the Sixth Schedule shall apply to the administration of the tribal areas in <sup>2</sup>[the States of Assam, <sup>3</sup>, <sup>5</sup>[Meghalaya, Tripura and Mizoram]]].

<sup>6</sup>[**244A. Formation of an autonomous State comprising certain tribal areas in Assam and creation of local Legislature or Council of Ministers or both therefor.**—(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 <sup>7</sup>[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.

(2) Any such law as is referred to in clause (1) may, in particular,—

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1. The words and letters "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

2. Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71, for "the State of Assam" (w.e.f. 21-1-1972).

3. Subs. by the Constitution (Forty-ninth Amendment) Act, 1984, s. 2, for "and Meghalaya" (w.e.f. 1-4-1985).

4. Subs. by the State of Mizoram Act, 1986 (34 of 1986), s. 39, for "Meghalaya and Tripura" (w.e.f. 20-2-1987).

5. Subs. by s. 39, *ibid.*, for "Meghalaya and Tripura and the Union territory of Mizoram". (w.e.f. 20-2-1987).

6. Ins. by the Constitution (Twenty-second Amendment) Act, 1969, s. 2 (w.e.f. 25-9-1969).

7. Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71, for "Part A" (w.e.f. 21-1-1972).

(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*

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

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

**246. Subject-matter of laws made by Parliament and by the Legislatures of States.**—(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 <sup>1\*\*\*</sup> 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 <sup>1\*\*\*</sup> has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule (in this Constitution referred to as the “State List”).

(4) Parliament has power to make laws with respect to any matter for any part of the territory of India not included <sup>2</sup>[in a State] notwithstanding that such matter is a matter enumerated in the State List.

<sup>3</sup>[**246A. Special provision with respect to goods and services tax.**—(1) Notwithstanding anything contained in articles 246 and 254, Parliament, and, subject to clause (2), the Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by such State.

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1. The words and letters "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

2. Subs. by s. 29 and Sch., *ibid.*, for "in Part A or Part B of the First Schedule" (w.e.f. 1-11-1956).

3. Ins. by the Constitution (One Hundred and First Amendment) Act, 2016, s. 2 (w.e.f. 16-9-2016).

(2) Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

*Explanation.*—The provisions of this article, shall, in respect of goods and services tax referred to in clause (5) of article 279A, take effect from the date recommended by the Goods and Services Tax Council.]

**247. Power of Parliament to provide for the establishment of certain additional courts.**—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.

**248. Residuary powers of legislation.**—(1) <sup>1</sup>[Subject to article 246A, Parliament] has exclusive power to make any law with respect to any matter not enumerated in the Concurrent List or State List.

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

**249. Power of Parliament to legislate with respect to a matter in the State List in the national interest.**—(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 <sup>2</sup>[goods and services tax provided under article 246A or] 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.

(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.

1. Subs. by the Constitution (One Hundred and First Amendment) Act, 2016, s. 3, for "Parliament" (w.e.f. 16-9-2016).

2. Ins. by s. 4, *ibid.* (w.e.f. 16-9-2016).



**250. Power of Parliament to legislate with respect to any matter in the State List if a Proclamation of Emergency is in operation.**—(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 <sup>1</sup>[goods and services tax provided under article 246A or] any of the matters enumerated in the State List.

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

**251. Inconsistency between laws made by Parliament under articles 249 and 250 and laws made by the Legislatures of States.**—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.

**252. Power of Parliament to legislate for two or more States by consent and adoption of such legislation by any other State.**—(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.

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1. Ins. by the Constitution (One Hundred and First Amendment) Act, 2016, s. 5 (w.e.f. 16-9-2016).

(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. Legislation for giving effect to international agreements.**—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.

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

(2) Where a law made by the Legislature of a State <sup>1\*\*\*</sup> 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.

**255. Requirements as to recommendations and previous sanctions to be regarded as matters of procedure only.**—No Act of Parliament or of the Legislature of a State <sup>1\*\*\*</sup>, 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—

1. The words and letters "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

(Part XI.—Relations between the Union and the States)

(a) where the recommendation required was that of the Governor, either by the Governor or by the President;

(b) where the recommendation required was that of the Rajpramukh, either by the Rajpramukh or by the President;

(c) where the recommendation or previous sanction required was that of the President, by the President.

## CHAPTER II.—ADMINISTRATIVE RELATIONS

*General*

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

**257. Control of the Union over States in certain cases.**—(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 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.

<sup>1</sup>[**257A.** *[Assistance to States by deployment of armed forces or other forces of the Union].—Omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 33 (w.e.f. 20-6-1979).]*

**258. Power of the Union to confer powers, etc., on States in certain cases.**—(1) Notwithstanding anything in this Constitution, the President may, with the consent of the Government of a State, entrust either conditionally or unconditionally to that Government or to its officers functions in relation to any matter to which the executive power of the Union extends.

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

(3) Where by virtue of this article powers and duties have been conferred or imposed upon a State or officers or authorities thereof, there shall be paid by the Government of India to the State such sum as may be agreed, or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India, in respect of any extra costs of administration incurred by the State in connection with the exercise of those powers and duties.

<sup>2</sup>[**258A. Power of the States to entrust functions to the Union.**—Notwithstanding anything in this Constitution, the Governor of a State may, with the consent of the Government of India, entrust either conditionally or unconditionally to that Government or to its officers functions in relation to any matter to which the executive power of the State extends.]

[**259. Armed Forces in States in Part B of the First Schedule.**—*Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).*

**260. Jurisdiction of the Union in relation to territories outside India.**—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.

1. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 43 (w.e.f. 3-1-1977).

2. Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 18 (w.e.f. 1-11-1956).

(Part XI.—Relations between the Union and the States)

**261. Public acts, records and judicial proceedings.**—(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.

(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. Adjudication of disputes relating to waters of inter-State rivers or river valleys.**—(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.

(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. Provisions with respect to an inter-State Council.**—If at any time it appears to the President that the public interests would be served by the establishment of a Council charged with the duty of—

(a) inquiring into and advising upon disputes which may have arisen between States;

(b) investigating and discussing subjects in which some or all of the States, or the Union and one or more of the States, have a common interest; or

(c) making recommendations upon any such subject and, in particular, recommendations for the better co-ordination of policy and action with respect to that subject,

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

**PART XII**  
**FINANCE, PROPERTY, CONTRACTS AND SUITS**  
**CHAPTER I.—FINANCE**

*General*

<sup>1</sup>[**264. Interpretation.**—In this Part, “Finance Commission” means a Finance Commission constituted under article 280.]

**265. Taxes not to be imposed save by authority of law.**—No tax shall be levied or collected except by authority of law.

**266. Consolidated Funds and public accounts of India and of the States.**—(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.

**267. Contingency Fund.**—(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.

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<sup>1</sup> Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch., for art. 264 (w.e.f. 1-11-1956).

(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 <sup>1\*\*\*</sup> 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. Duties levied by the Union but collected and appropriated by the States.**—(1) Such stamp duties <sup>2\*\*\*</sup> as are mentioned in the Union List shall be levied by the Government of India but shall be collected—

(a) in the case where such duties are leviable within any <sup>3</sup>[Union territory], by the Government of India, and

(b) in other cases, by the States within which such duties are respectively leviable.

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

<sup>4</sup>**268A.** *[Service tax levied by Union and collected and appropriated by the Union and the States.]—Omitted by the Constitution (One Hundred and First Amendment) Act, 2016, s. 7 (w.e.f. 16-9-2016).*

1. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

2. The words "and such duties of excise on medicinal and toilet preparations" omitted by the Constitution (One Hundred and First Amendment) Act, 2016, s. 6, (w.e.f. 16-9-2016).

3. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch., for "State Specified in Part C of the First Schedule" (w.e.f. 1-11-1956).

4. Ins. by the Constitution (Eighty-eighth Amendment) Act, 2003, s. 2 (date not notified).

**269. Taxes levied and collected by the Union but assigned to the States.**—<sup>1</sup>[(1) Taxes on the sale or purchase of goods and taxes on the consignment of goods <sup>2</sup>[except as provided in article 269A] 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.

(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.]

<sup>3</sup>[(3) Parliament may by law formulate principles for determining when a <sup>4</sup>[sale or purchase of, or consignment of goods] takes place in the course of inter-State trade or commerce.]

<sup>5</sup>[**269A. Levy and collection of goods and services tax in course of inter-State trade or commerce.**— (1) Goods and services tax on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.

1. Subs. by the Constitution (Eightieth Amendment) Act, 2000. s. 2, for cls. (1) and (2) (w.e.f. 9-6-2000).

2. Ins. by the Constitution (One Hundred and First Amendment) Act, 2016 s. 8, (w.e.f. 16-9-2016).

3. Ins. by the Constitution (Sixth Amendment) Act, 1956, s. 3 (w.e.f. 11-9-1956).

4. Subs. by the Constitution (Forty-sixth Amendment) Act, 1982. s. 2, for "sale or purchase of goods" (w.e.f. 2-2-1983).

5. Ins. by the Constitution (One Hundred and First Amendment) Act, 2016, s. 9 (w.e.f. 16-9-2016).



*Explanation.*—For the purposes of this clause, supply of goods, or of services, or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce.

(2) The amount apportioned to a State under clause (1) shall not form part of the Consolidated Fund of India.

(3) Where an amount collected as tax levied under clause (1) has been used for payment of the tax levied by a State under article 246A, such amount shall not form part of the Consolidated Fund of India.

(4) Where an amount collected as tax levied by a State under article 246A has been used for payment of the tax levied under clause (1), such amount shall not form part of the Consolidated Fund of the State.

(5) Parliament may, by law, formulate the principles for determining the place of supply, and when a supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.]

<sup>1</sup>[**270. Taxes levied and distributed between the Union and the States.**—(1) All taxes and duties referred to in the Union List, except the duties and taxes referred to in <sup>2</sup>[articles 268, 269 and 269A], 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).

<sup>3</sup>[(1A) The tax collected by the Union under clause (1) of article 246A shall also be distributed between the Union and the States in the manner provided in clause (2).

(1B) The tax levied and collected by the Union under clause (2) of article 246A and article 269A, which has been used for payment of the tax levied by the Union under clause (1) of article 246A, and the amount apportioned to the Union under clause (1) of article 269A, shall also be distributed between the Union and the States in the manner provided in clause (2).]

1. Subs. by the Constitution (Eightieth Amendment) Act, 2000, s. 3, for art. 270 (w.e.f. 1-4-1996).

2. Subs. by the Constitution (Eighty-eighth Amendment) Act, 2003, s. 3, for “articles 268 and 269” (not enforced) and further subs. by the Constitution (One Hundred and First Amendment) Act, 2016, s. 10, for “arts. 268, 268A and 269” (w.e.f. 16-9-2016).

3. Ins. by s. 10, *ibid.* (w.e.f. 16-9-2016).

(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.]

**271. Surcharge on certain duties and taxes for purposes of the Union.**—Notwithstanding anything in articles 269 and 270, Parliament may at any time increase any of the duties or taxes referred to in those articles <sup>1</sup>[except the goods and services tax under article 246A,] 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.**].—Omitted by the Constitution (Eightieth Amendment) Act, 2000, s. 4. (w.e.f. 9-6-2000).

**273. Grants in lieu of export duty on jute and jute products.**—(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, <sup>2</sup>[Odisha] 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.

1. Ins. by the Constitution (One Hundred and First Amendment) Act, 2016, s. 11 (w.e.f. 16-9-2016).

2. Subs. by the Orissa (Alteration of Name) Act, 2011 (15 of 2011), s. 5, for "Orissa" (w.e.f. 1-11-2011).

(3) In this article, the expression “prescribed” has the same meaning as in article 270.

**274. Prior recommendation of President required to Bills affecting taxation in which States are interested.**—(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

(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. Grants from the Union to certain States.**—(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:

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—

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(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 <sup>1</sup>[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 the level of administration of the said areas to that of the administration of the rest of the areas of that State.

<sup>2</sup>[(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.

**276. Taxes on professions, trades, callings and employments.—**(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.

1. Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971) s. 71, for "Part A" (w.e.f. 21-1-1972).

2. Ins. by the Constitution (Twenty-second Amendment) Act, 1969, s. 3 (w.e.f. 25-9-1969).

(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 <sup>1</sup>[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. Savings.**—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.

**278.** [*Agreement with States in Part B of the First Schedule with regard to certain financial matters.*].—Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.(w.e.f. 1-11-1956).

**279. Calculation of “net proceeds”, etc.**—(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.

1. Subs. by the Constitution (Sixtieth Amendment) Act, 1988, s. 2, for "two hundred and fifty rupees" (w.e.f. 20-12-1988).

2. Proviso omitted by s.2, *ibid.* (w.e.f. 20-12-1988).

<sup>1</sup>[**279A. Goods and Services Tax Council.**—(1) The President shall, within sixty days from the date of commencement of the Constitution (One Hundred and First Amendment) Act, 2016, by order, constitute a Council to be called the Goods and Services Tax Council.

(2) The Goods and Services Tax Council shall consist of the following members, namely:—

(a) the Union Finance Minister — Chairperson;

(b) the Union Minister of State in charge of Revenue or Finance — Member;

(c) the Minister in charge of Finance or Taxation or any other Minister nominated by each State Government — Members.

(3) The Members of the Goods and Services Tax Council referred to in sub-clause (c) of clause (2) shall, as soon as may be, choose one amongst themselves to be the Vice-Chairperson of the Council for such period as they may decide.

(4) The Goods and Services Tax Council shall make recommendations to the Union and the States on—

(a) the taxes, cesses and surcharges levied by the Union, the States and the local bodies which may be subsumed in the goods and services tax;

(b) the goods and services that may be subjected to, or exempted from, the goods and services tax;

(c) model Goods and Services Tax Laws, principles of levy, apportionment of Goods and Services Tax levied on supplies in the course of inter-State trade or commerce under article 269A and the principles that govern the place of supply;

(d) the threshold limit of turnover below which goods and services may be exempted from goods and services tax;

(e) the rates including floor rates with bands of goods and services tax;

(f) any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster;

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1. Ins. by the Constitution (One Hundred and First Amendment) Act, 2016, s. 12 (w.e.f. 12-9-2016).

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(g) special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and

(h) any other matter relating to the goods and services tax, as the Council may decide.

(5) The Goods and Services Tax Council shall recommend the date on which the goods and services tax be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel.

(6) While discharging the functions conferred by this article, the Goods and Services Tax Council shall be guided by the need for a harmonised structure of goods and services tax and for the development of a harmonised national market for goods and services.

(7) One-half of the total number of Members of the Goods and Services Tax Council shall constitute the quorum at its meetings.

(8) The Goods and Services Tax Council shall determine the procedure in the performance of its functions.

(9) Every decision of the Goods and Services Tax Council shall be taken at a meeting, by a majority of not less than three-fourths of the weighted votes of the members present and voting, in accordance with the following principles, namely:—

(a) the vote of the Central Government shall have a weightage of one-third of the total votes cast; and

(b) the votes of all the State Governments taken together shall have a weightage of two-thirds of the total votes cast,

in that meeting.

(10) No act or proceedings of the Goods and Services Tax Council shall be invalid merely by reason of—

(a) any vacancy in, or any defect in, the constitution of the Council; or

(b) any defect in the appointment of a person as a Member of the Council; or

(c) any procedural irregularity of the Council not affecting the merits of the case.

(11) The Goods and Services Tax Council shall establish a mechanism to adjudicate any dispute—

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(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 side; or

(c) between two or more States,

arising out of the recommendations of the Council or implementation thereof.]

**280. Finance Commission.**—(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;

<sup>1</sup>[(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;]

<sup>2</sup>[(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;]

<sup>3</sup>[(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.

1. Ins. by the Constitution (Seventy-third Amendment) Act, 1992, s. 3 (w.e.f. 24-4-1993).

2. Ins. by the Constitution (Seventy-fourth Amendment) Act, 1992, s. 3 (w.e.f. 1-6-1993).

3. Sub-clause (c) re-lettered as sub-clause (d) by s. 3, *ibid.* (w.e.f. 1-6-1993).



**281. Recommendations of the Finance Commission.**—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.

*Miscellaneous Financial Provisions*

**282. Expenditure defrayable by the Union or a State out of its revenues.**—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.

**283. Custody, etc., of Consolidated Funds, Contingency Funds and moneys credited to the public accounts.**—(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 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<sup>1\*\*\*</sup> of the State.

**284. Custody of suitors' deposits and other moneys received by public servants and courts.**—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,

1. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

shall be paid into the public account of India or the public account of State, as the case may be.

**285. Exemption of property of the Union from State taxation.**—(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.

**286. Restrictions as to imposition of tax on the sale or purchase of goods.**—(1) No law of a State shall impose, or authorise the imposition of, a tax on <sup>1</sup>[the supply of goods or of services or both, where such supply takes place]—

(a) outside the State; or

(b) in the course of the import of the <sup>2</sup>[goods or services or both] into, or export of the <sup>2</sup>[goods or services or both] out of, the territory of India.

<sup>3</sup>[\* \* \* \*]

<sup>4</sup>[(2) Parliament may by law formulate principles for determining when a <sup>5</sup>[supply of goods or of services or both] in any of the ways mentioned in clause (1).

<sup>6</sup>[(3) \* \* \* \*]

**287. Exemption from taxes on electricity.**—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

1. Subs. by the Constitution (One Hundred and First Amendment) Act, 2016, s. 13, (i)(A) for "the sale or purchase of goods where such sale or purchase takes place" (w.e.f. 16-9-2016).

2. Subs. by s. 13 (i)(B), *ibid.*, for "goods" (w.e.f. 16-9-2016).

3. *Explanation* to cl. (1) omitted by the Constitution (Sixth Amendment) Act, 1956, s. 4 (w.e.f. 11-9-1956).

4. Subs. by s.4, *ibid.*, for cls. (2) and (3) (w.e.f. 11-9-1956).

5. Subs. by the Constitution (One Hundred and First Amendment) Act, 2016, s. 13(ii), for "sale or purchase of goods takes place" (w.e.f. 16-9-2016).

6. Cl. (3) omitted by s. 13 (iii), *ibid.* (w.e.f. 16-9-2016).

(whether produced by a Government or other persons) which is—

(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 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.

**288. Exemption from taxation by States in respect of water or electricity in certain cases.**—(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.

**289. Exemption of property and income of a State from Union taxation.**—(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 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. Adjustment in respect of certain expenses and pensions.—**

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.

<sup>1</sup>[**290A. Annual payment to certain Devaswom Funds.**—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 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 <sup>2</sup>[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.]

1. Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 19 (w.e.f. 1-11-1956).

2. Subs. 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)

**291.** [*Privy purse sums of Rulers.*].—*Omitted by the Constitution (Twenty-sixth Amendment) Act, 1971, s. 2 (w.e.f. 28-12-1971).*

## CHAPTER II.—BORROWING

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

**293. Borrowing by States.**—(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.

(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. Succession to property, assets, rights, liabilities and obligations in certain cases.**—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

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(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. Succession to property, assets, rights, liabilities and obligations in other cases.**—(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

(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).

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

<sup>1</sup>[**297. Things of value within territorial waters or continental shelf and resources of the exclusive economic zone to vest in the Union.**—(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.

(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.]

<sup>2</sup>[**298. Power to carry on trade, etc.**—The executive power of the Union and of each State shall extend to the carrying on of any trade or business and to the acquisition, holding and disposal of property and the making of contracts for any purpose:

Provided that—

(a) the said executive power of the Union shall, in so far as such trade or business or such purpose is not one with respect to which Parliament may make laws, be subject in each State to legislation by the State; and

(b) the said executive power of each State shall, in so far as such trade or business or such purpose is not one with respect to which the State Legislature may make laws, be subject to legislation by Parliament.]

1. Subs. by the Constitution (Fortieth Amendment) Act, 1976, s. 2 (w.e.f. 27-5-1976).

2. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 20 (w.e.f. 1-11-1956).

**299. Contracts.**—(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 <sup>1\*\*\*</sup> 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 the President or the Governor <sup>1\*\*\*</sup> by such persons and in such manner as he may direct or authorise.

(2) Neither the President nor the Governor <sup>2\*\*\*</sup> 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.

**300. Suits and proceedings.**—(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.

<sup>3</sup>[CHAPTER IV.—RIGHT TO PROPERTY

**300A. Persons not to be deprived of property save by authority of law.**—No person shall be deprived of his property save by authority of law.]

1. The words "or the Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

2. The words "nor the Rajpramukh" omitted by s. 29 and Sch., *ibid.* (w.e.f. 1-11-1956).

3. Ins. 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. Freedom of trade, commerce and intercourse.**—Subject to the other provisions of this Part, trade, commerce and intercourse throughout the territory of India shall be free.

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

**303. Restrictions on the legislative powers of the Union and of the States with regard to trade and commerce.**—(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.

(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. Restrictions on trade, commerce and intercourse among States.**—Notwithstanding anything in article 301 or article 303, the Legislature of a State may by law—

(a) impose on goods imported from other States <sup>1</sup>[or the Union territories] any tax to which similar goods manufactured or produced in that State are subject, so, however, as not to discriminate between goods so imported and goods so manufactured or produced; and

(b) impose such reasonable restrictions on the freedom of trade, commerce or intercourse with or within that State as may be required in the public interest:

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1. Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

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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.

<sup>1</sup>[**305. Saving of existing laws and laws providing for State monopolies.**—Nothing in articles 301 and 303 shall affect the provisions of any existing law except in so far as the President may 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.*].—Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.(w.e.f. 1-11-1956)

**307. Appointment of authority for carrying out the purposes of articles 301 to 304.**—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.

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1. Subs. by the Constitution (Fourth Amendment) Act, 1955, s. 4, for art. 305 (w.e.f. 27-4-1955).

**PART XIV**  
**SERVICES UNDER THE UNION AND THE STATES**  
**CHAPTER I.— SERVICES**

**308. Interpretation.**—In this Part, unless the context otherwise requires, the expression “State” <sup>1</sup>[does not include the State of Jammu and Kashmir].

**309. Recruitment and conditions of service of persons serving the Union or a State.**—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:

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 <sup>2\*\*\*</sup> 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. Tenure of office of persons serving the Union or a State.**—(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 <sup>3\*\*\*</sup> of the State.

(2) Notwithstanding that a person holding a civil post under the Union or a State holds office during the pleasure of the President or, as the case may be, of the Governor <sup>2\*\*\*</sup> 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 <sup>2\*\*\*</sup>, as the case may be, deems it

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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” (w.e.f. 1-11-1956).

2. The words “or Rajpramukh” omitted by s.29 and Sch., *ibid* (w.e.f. 1-11-1956).

3. The words “or, as the case may be, the Rajpramukh” omitted by s.29 and Sch., *ibid*. . (w.e.f. 1-11-1956).

necessary in order to secure the services of a person having special qualifications, provide for the payment to him of compensation, if before the expiration of an agreed period that post is abolished or he is, for reasons not connected with any misconduct on his part, required to vacate that post.

**311. Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State.**—(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.

<sup>1</sup>[(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 <sup>2\*\*\*</sup>:

<sup>3</sup>[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

(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.]

1. Subs. by the Constitution (Fifteenth Amendment) Act, 1963, s. 10, for cls. (2) and (3) (w.e.f. 5-10-1963).

2. Certain words omitted by the Constitution (Forty-second Amendment) Act, 1976, s. 44 (w.e.f. 3-1-1977).

3. Subs. by s. 44, *ibid.*, for certain words (w.e.f. 3-1-1977).

**312. All-India services.**—(1) Notwithstanding anything in <sup>1</sup>[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 <sup>2</sup>[(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.

(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.

<sup>2</sup>[(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 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.]

<sup>3</sup>[**312A. Power of Parliament to vary or revoke conditions of service of officers of certain services.**—(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;

1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 45, for "Part XI" (w.e.f. 3-1-1977).

2. Ins. by s. 45, *ibid.* (w.e.f. 3-1-1977).

3. Ins. by the Constitution (Twenty-eighth Amendment) Act, 1972, s. 2 (w.e.f. 29-8-1972).

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(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.

(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. Transitional provisions.**—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.

**314.** [Provision for protection of existing officers of certain services].—Omitted by the Constitution (Twenty-eighth Amendment) Act, 1972, s. 3 (w.e.f. 29-8-1972).

#### CHAPTER II.—PUBLIC SERVICE COMMISSIONS

##### **315. Public Service Commissions for the Union and for the States.**—

(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.

(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 <sup>1\*\*\*</sup> 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.

**316. Appointment and term of office of members.**—(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 of the State:

1. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

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.

<sup>1</sup>[(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 <sup>2</sup>[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 <sup>3\*\*\*</sup> 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.

1. Ins. by the Constitution (Fifteenth Amendment) Act, 1963, s. 11 (w.e.f. 5-10-1963).

2. Subs. by the Constitution (Forty-first Amendment) Act, 1976, s. 2, for "sixty years" (w.e.f. 7-9-1976).

3. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).



**317. Removal and suspension of a member of a Public Service Commission.**—(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 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 <sup>1\*\*\*</sup> 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.

**318. Power to make regulations as to conditions of service of members and staff of the Commission.**—In the case of the Union Commission or a Joint Commission, the President and, in the case of a State Commission, the Governor <sup>1\*\*\*</sup> of the State may by regulations—

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1. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

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(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. Prohibition as to the holding of offices by members of Commission on ceasing to be such members.**—On ceasing to hold office—

(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 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.

**320. Functions of Public Service Commissions.**—(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—

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(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 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 <sup>1\*\*\*</sup> 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 <sup>2\*\*\*</sup>, 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.

1. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

2. The words "or Rajpramukh, as the case may be" omitted by s. 29 and Sch. *ibid.* (w.e.f. 1-11-1956).

(5) All regulations made under the proviso to clause (3) by the President or the Governor <sup>1\*\*\*</sup> 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 of the Legislature of the State may make during the session in which they are so laid.

**321. Power to extend functions of Public Service Commissions.**—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.

**322. Expenses of Public Service Commissions.**—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.

**323. Reports of Public Service Commissions.**—(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 <sup>1\*\*\*</sup> 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 <sup>1\*\*\*</sup> 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 <sup>2\*\*\*</sup>, 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.

1. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

2. The words "or Rajpramukh, as the case may be" omitted by s. 29 and Sch. *ibid.* (w.e.f. 1-11-1956).

<sup>1</sup>[PART XIVA  
TRIBUNALS

**323A. Administrative tribunals.**—(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.

(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;

(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.

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1. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 46 (w.e.f. 3-1-1977).

(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.

**323B. Tribunals for other matters.**—(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 for the purpose of this article and control of prices of such goods;

<sup>1</sup>[(h) rent, its regulation and control and tenancy issues including the right, title and interest of landlords and tenants;]

<sup>2</sup>[(i)] offences against laws with respect to any of the matters specified in sub-clauses (a) to <sup>3</sup>[(h)] and fees in respect of any of those matters;

1. Ins. by the Constitution (Seventy-fifth Amendment) Act, 1993, s. 2 (w.e.f. 15-5-1994).

2. Sub-clause (h) re-lettered as sub-clause (i) by s. 2, *ibid.* (w.e.f. 15-5-1994).

3. Subs. by s. 2, *ibid.*, for the brackets and letter “(g)” (w.e.f. 15-5-1994).

<sup>1</sup>[(j)] any matter incidental to any of the matters specified in sub-clauses (a) to <sup>2</sup>[(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;

(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.]

1. Sub-clause (i) re-lettered as sub-clause (j) by the Constitution (Seventy-fifth Amendment) Act, 1993, s. 2 (w.e.f. 15-5-1994).

2. Subs. by s. 2, *ibid*, for “(h)” (w.e.f. 15-5-1994).

**PART XV**  
**ELECTIONS**

**324. Superintendence, direction and control of elections to be vested in an Election Commission.**—(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 <sup>1\*\*\*</sup> shall be vested in a Commission (referred to in this Constitution as the Election Commission).

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

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:

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1. The words "including the appointment of election tribunals for the decision of doubts and disputes arising out of or in connection with elections to Parliament and to the Legislatures of States" omitted by the Constitution (Nineteenth Amendment) Act, 1966, s. 2 (w.e.f. 11-12-1966).



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 <sup>1\*\*\*</sup> 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).

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

**326. Elections to the House of the People and to the Legislative Assemblies of States to be on the basis of adult suffrage.**—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 <sup>2</sup>[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.

**327. Power of Parliament to make provision with respect to elections to Legislatures.**—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.

1. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

2. Subs. by the Constitution (Sixty-first Amendment) Act, 1988, s. 2, for "twenty-one years" (w.e.f. 28-3-1989).

**328. Power of Legislature of a State to make provision with respect to elections to such Legislature.**—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.

**329. Bar to interference by courts in electoral matters.**—<sup>1</sup>[Notwithstanding anything in this Constitution <sup>2\*\*\*</sup>—]

(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.

<sup>3</sup>**329A.** [*Special provision as to elections to Parliament in the case of Prime Minister and Speaker.*].—Omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 36 (w.e.f. 20-6-1979).

1. Subs. by the Constitution (Thirty-ninth Amendment) Act, 1975, s. 3, for certain words (w.e.f. 10-8-1975).

2. The words, figures and letter "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).

3. Ins. by the Constitution (Thirty-ninth Amendment) Act, 1975, s. 4 (w.e.f. 10-8-1975).

## PART XVI

### SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES

**330. Reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the People.**—(1) Seats shall be reserved in the House of the People for —

(a) the Scheduled Castes;

<sup>1</sup>[(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 <sup>2</sup>[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 <sup>2</sup>[or Union territory] in the House of the People as the population of the Scheduled Castes in the State <sup>2</sup>[or Union territory] or of the Scheduled Tribes in the State <sup>2</sup>[or Union territory] or part of the State <sup>2</sup>[or Union territory], as the case may be, in respect of which seats are so reserved, bears to the total population of the State <sup>2</sup>[or Union territory].

<sup>3</sup>[(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.]

<sup>4</sup>[*Explanation.*—In this article and in article 332, 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 been published shall, until the relevant figures for the first census taken after the year <sup>5</sup>[2026] have been published, be construed as a reference to the <sup>6</sup>[2001] census.]

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1. Subs. By the Constitution (Fifty-first Amendment) Act, 1984, s. 2, for sub-clause (b) (w.e.f. 16-6-1986).

2. Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

3. Ins. by the Constitution (Thirty-first Amendment) Act, 1973, s. 3 (w.e.f. 17-10-1973).

4. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 47 (w.e.f. 3-1-1977).

5. Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 6, for "2000" (w.e.f. 21-2-2002).

6. Subs. by the Constitution (Eighty-seventh Amendment) Act, 2003, s. 5, for "1991" (w.e.f. 22-6-2003).

**<sup>1</sup>[330A. Reservation of seats for women in the House of the People.-**

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

(2) As nearly as may be, one-third of the total number of seats reserved under clause (2) of article 330 shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes.

(3) As nearly as may be, 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 to the House of the People shall be reserved for women.]

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

**332. Reservation of seats for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States.**—(1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes, <sup>2</sup>[except the Scheduled Tribes in the autonomous districts of Assam], in the Legislative Assembly of every State <sup>3\*\*\*\*</sup>.

(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.

<sup>4</sup>[(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 <sup>5</sup>[2026], of the number of seats in the Legislative 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,—

1. Ins. by the Constitution (One Hundred and Sixth Amendment) Act, 2023, s.3 (date yet to be notified).

2. Subs. by the Constitution (Fifty-first Amendment) Act, 1984, s. 3, for certain words (w.e.f. 16-6-1986).

3. The words and letters "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

4. Ins. by the Constitution (Fifty-seventh Amendment) Act, 1987, s. 2 (w.e.f. 21-9-1987).

5. Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 7, for "2000" (w.e.f. 21-2-2002).

(Part XVI.—Special Provisions Relating to Certain Classes)

(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.]

<sup>1</sup>[(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 <sup>2</sup>[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 <sup>3\*\*\*</sup>.

(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 <sup>3\*\*\*</sup>:

<sup>4</sup>[Provided that for elections to the Legislative Assembly of the State of

1. Ins. by the Constitution (Seventy-second Amendment) Act, 1992, s. 2 (w.e.f. 5-12-1992).

2. Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 7, for "2000" (w.e.f. 21-2-2002).

3. Certain words omitted by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71 (w.e.f. 21-1-1972).

4. Ins. by the Constitution (Ninetieth Amendment) Act, 2003, s. 2 (w.e.f. 28-9-2003).

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.]

<sup>1</sup>[**332A. Reservation of seats for women in the Legislative Assemblies of the States.**— (1) Seats shall be reserved for women in the Legislative Assembly of every State.

(2) As nearly as may be, one-third of the total number of seats reserved under clause (3) of article 332 shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes.

(3) As nearly as may be, 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 the Legislative Assembly of every State shall be reserved for women.]

**333. Representation of the Anglo-Indian community in the Legislative Assemblies of the States.**—Notwithstanding anything in article 170, the Governor <sup>2\*\*\*\*</sup> 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, <sup>3</sup>[nominate one member of that community to the Assembly].

**334. <sup>4</sup>[Reservation of seats and special representation to cease after certain period].**—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,

1. Ins. by the Constitution (One Hundred and Sixth Amendment) Act, 2023, s.4 (date yet to be notified).

2. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

3. Subs. 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" (w.e.f. 23-1-1970).

4. Subs. by the Constitution (One hundred and fourth Amendment) Act, 2019, s. 2, for marginal heading (w.e.f. 25-1-2020).

shall cease to have effect on the expiration of a period of <sup>1</sup>[eighty years in respect of clause (a) and seventy years in respect of clause (b)] 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.

<sup>2</sup>[**334A. Reservation of seats for women take effect.** — (1) Notwithstanding anything in the foregoing provision of this Part or Part VIII, the provisions of the Constitution relating to the reservation of seats for women in the House of the People, the Legislative Assembly of a State and the Legislative Assembly of the National Capital Territory of Delhi shall come into effect after an exercise of delimitation is undertaken for this purpose after the relevant figures for the first census taken after commencement of the Constitution (One Hundred and Sixth Amendment) Act, 2023 have been published and shall cease to have effect on the expiration of a period of fifteen years from such commencement.

(2) Subject to the provisions of articles 239AA, 330A and 332A, seats reserved for women in the House of the People, the Legislative Assembly of a State and the Legislative Assembly of the National Capital Territory of Delhi shall continue till such date as the Parliament may by law determine.

(3) Rotation of seats reserved for women in the House of the People, the Legislative Assembly of a State and the Legislative Assembly of the National Capital Territory of Delhi shall take effect after each subsequent exercise of delimitation as the Parliament may by law determine.

(4) Nothing in this article shall affect any representation in the House of the People, the Legislative Assembly of a State or the Legislative Assembly of the National Capital Territory of Delhi until the dissolution of the then existing House of the People, Legislative Assembly of a State or the Legislative Assembly of the National Capital Territory of Delhi.]

**335. Claims of Scheduled Castes and Scheduled Tribes to services and posts.**—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. Subs. by the Constitution (One Hundred and Fourth Amendment) Act, 2019, s. 2, for “seventy years” (w.e.f. 25-1-2020). The words “seventy years” subs. for “sixty years” by the Constitution (Ninety-fifth Amendment) Act, 2009, s.2 (w.e.f. 25-1-2010). The words “sixty years” subs. for “fifty years” by the Constitution (Seventy-ninth Amendment) Act, 1999, s. 2 (w.e.f. 25-1-2000). The words “fifty years” subs. for “forty years” by the Constitution (Sixty-second Amendment) Act, 1989, s. 2 (w.e.f. 20-12-1989). The words “forty years” subs. for “thirty years” by the Constitution (Forty-fifth Amendment) Act, 1980, s. 2 (w.e.f. 25-1-1980).
2. Ins. by the Constitution (One Hundred and Sixth Amendment) Act, 2023, s.5 (date yet to be notified).

<sup>1</sup>[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 or promotion to any class or classes of services or posts in connection with the affairs of the Union or of a State.]

**336. Special provision for Anglo-Indian community in certain services.**—(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.

**337. Special provision with respect to educational grants for the benefit of Anglo-Indian community.**—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 <sup>2\*\*\*</sup> 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.

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.

1. Ins. by the Constitution (Eighty-second Amendment) Act, 2000, s. 2 (w.e.f. 8-9-2000).

2. The words and letters "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).



(Part XVI.—Special Provisions Relating to Certain Classes)

**338.** <sup>1</sup>[**National Commission for Scheduled Castes**].—<sup>2</sup><sup>3</sup>[(1) There shall be a Commission for the Scheduled Castes to be known as the National Commission for the 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 <sup>4\*\*\*</sup> 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 Castes <sup>4\*\*\*</sup>;

(c) to participate and advise on the planning process of socio-economic development of the Scheduled Castes <sup>1\*\*\*</sup> 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

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1. Subs. by the Constitution (Eighty-ninth Amendment) Act, 2003, s. 2, for the marginal heading (w.e.f. 19-2-2004).

2. Subs. by the Constitution (Sixty-fifth Amendment) Act, 1990, s. 2, for cls. (1) and (2) (w.e.f. 12-3-1992).

3. Subs. by the Constitution (Eighty-ninth Amendment) Act, 2003, s. 2, for cls. (1) and (2) (w.e.f. 19-2-2004).

4. The 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)

those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Castes <sup>1\*\*\*</sup>; and

(f) to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Castes <sup>1\*\*\*</sup> 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.

(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 <sup>1\*\*\*</sup>.

<sup>2</sup>[(10)] In this article, references to the Scheduled Castes <sup>1\*\*\*</sup> shall be construed as including references <sup>3\*\*\*</sup> to the Anglo-Indian community.

<sup>4</sup>[**338A. National Commission for Scheduled Tribes.**—(1) There shall be a Commission for the Scheduled Tribes to be known as the National Commission for the Scheduled Tribes.

1. The words "and Scheduled Tribes" omitted by the Constitution (Eighty-ninth Amendment) Act, 2003, s. 2 (w.e.f. 19-2-2004).

2. Cl. (3) renumbered as cl. (10) by the Constitution (Sixty-fifth Amendment) Act, 1990, s. 2 (w.e.f. 12-3-1992).

3. The words, brackets and figures "to such other backward classes as the President may, on receipt of the report of a Commission appointed under cl. (1) of article 340, by order specify and also" omitted by the Constitution (One Hundred and Second Amendment) Act, 2018, s. 2 (w.e.f. 15-8-2018).

4. Art 338A ins. by the Constitution (Eighty-ninth Amendment) Act, 2003, s. 3 (w.e.f. 19-2-2004).

(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 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 to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any 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.

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(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.]

<sup>1</sup>[**338B. National Commission for Backward Classes.**—(1) There shall be a Commission for the socially and educationally backward classes to be known as the National Commission for Backward Classes.

(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 socially and educationally backward classes 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 socially and educationally backward classes;

(c) to participate and advise on the socio-economic development of the socially and educationally backward classes and to evaluate the progress of their development under the Union and any State;

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<sup>1</sup>Art 338B ins. by the Constitution (One Hundred and Second Amendment) Act, 2018, s. 3 (w.e.f. 15-8-2018).

(Part XVI.—Special Provisions Relating to Certain Classes)

(*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 the 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 socially and educationally backward classes; and

(*f*) to discharge such other functions in relation to the protection, welfare and development and advancement of the socially and educationally backward classes 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 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 State Government which 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 the socially and educationally backward classes:]

<sup>1</sup>[Provided that nothing in this clause shall apply for the purposes of clause (3) of article 342A.]

**339. Control of the Union over the administration of Scheduled Areas and the welfare of Scheduled Tribes.**—(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 <sup>2\*\*\*</sup>.

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 <sup>3</sup>[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.

**340. Appointment of a Commission to investigate the conditions of backward classes.**—(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.

**341. Scheduled Castes.**—(1) The President <sup>4</sup>[may with respect to any State <sup>5</sup>[or Union territory], and where it is a State <sup>2\*\*\*</sup>, after consultation with

1. Ins. by the Constitution (One Hundred and Fifth Amendment) Act, 2021, s. 2 (w.e.f. 15-9-2021).

2. The words and letters for "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

3. Subs. by s. 29 and Sch. *ibid.* for "any such State" (w.e.f. 1-11-1956).

4. Subs. by the Constitution (First Amendment) Act, 1951, s. 10, for "may, after consultation with the Governor or Rajpramukh of a State" (w.e.f. 18-6-1951).

5. Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

the Governor <sup>1\*\*\*</sup> thereof], by public notification<sup>2</sup>, specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State <sup>3</sup>[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. Scheduled Tribes.**—(1) The President <sup>4</sup>[may with respect to any State <sup>3</sup>[or Union territory], and where it is a State <sup>5\*\*\*</sup>, after consultation with the Governor <sup>1\*\*\*</sup> thereof], by public notification<sup>6</sup>, 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 State <sup>3</sup>[or Union territory, as the case may be.]

(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.

1. The words "or Rajpramukh" omitted by the constitution (Seventh Amendment) Act, 1956, s. 29 and Sch., *ibid.* (w.e.f. 1-11-1956).
2. See 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).
3. Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).
4. Subs. by the Constitution (First Amendment) Act, 1951, s. 11, for "may, after consultation with the Governor or Rajpramukh of State" (w.e.f. 18-6-1951).
5. Certain words Omitted by the constitution (Seventh Amendment) Act, 1956, s. 29 and Sch., *ibid.* (w.e.f. 1-11-1956).
6. See 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) the Constitution (Sikkim) Scheduled Tribes Order, 1978 (C.O. 111).

<sup>1</sup>[**342A. Socially and educationally backward classes.**—(1) The President may with respect to any State or Union territory, and where it is a State, after consultation with the Governor thereof, by public notification, specify <sup>2</sup>[the socially and educationally backward classes in the Central List which shall for the purposes of the Central Government] be deemed to be socially and educationally backward classes in relation to that State or Union territory, as the case may be.

(2) Parliament may by law include in or exclude from the Central List of socially and educationally backward classes specified in a notification issued under clause (1) any socially and educationally backward class, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.]

<sup>3</sup>[*Explanation.*—For the purposes of clauses (1) and (2), the expression “Central List” means the list of socially and educationally backward classes prepared and maintained by and for the Central Government.

(3) Notwithstanding any contained in clauses (1) and (2), every State or Union territory may, by law, prepare and maintain, for its own purposes, a list of socially and educationally backward classes, entries in which may be different from the Central List.]

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1. Art 342 A ins. by the Constitution (One Hundred and Second Amendment) Act, 2018, s. 4 (w.e.f. 15-8-2018).

2. Subs. by the Constitution (One Hundred and Fifth Amendment) Act, 2021, s. 3 for socially and educationally backward classes which shall for the purposes of the Constitution (w.e.f. 15-9-2021).

3. Ins. by the Constitution (One Hundred and Fifth Amendment) Act, 2021, s. 3 (w.e.f. 15-9-2021).



## PART XVII

### OFFICIAL LANGUAGE

#### CHAPTER I.—LANGUAGE OF THE UNION

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

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

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

Provided that the President may, during the said period, by order<sup>1</sup> authorise the use of the Hindi language in addition to the English language and of the Devanagari form of numerals in addition to the international form of Indian numerals for any of the official purposes of the Union.

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

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

for such purposes as may be specified in the law.

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

(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;

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1. See C.O. 41.

(*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.

(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

**345. Official language or languages of a State.**—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.

**346. Official language for communication between one State and another or between a State and the Union.**—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.

**347. Special provision relating to language spoken by a section of the population of a State.**—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.

**348. Language to be used in the Supreme Court and in the High Courts and for Acts, Bills, etc.**—(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;
- (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 <sup>1\*\*\*</sup> 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 <sup>1\*\*\*</sup> 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:

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1. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

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 <sup>1\*\*\*</sup> 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 <sup>1\*\*\*</sup> 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.

**349. Special procedure for enactment of certain laws relating to language.**—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

**350. Language to be used in representations for redress of grievances.**—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.

<sup>2</sup>**[350A. Facilities for instruction in mother-tongue at primary stage.**—It shall be the endeavour of every State and of every local authority within the State to provide adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups; and the President may issue such directions to any State as he considers necessary or proper for securing the provision of such facilities.

1. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

2. Arts. 350A and 350B ins. by s.21., *ibid.* (w.e.f. 1-11-1956).

**350B. Special Officer for linguistic minorities.**—(1) There shall be a Special Officer for linguistic minorities to be appointed by the President.

(2) It shall be the duty of the Special Officer to investigate all matters relating to the safeguards provided for linguistic minorities under this Constitution and report to the President upon those matters at such intervals as the President may direct, and the President shall cause all such reports to be laid before each House of Parliament, and sent to the Governments of the States concerned.]

**351. Directive for development of the Hindi language.**—It shall be the duty of the Union to promote the spread of the Hindi language, to develop it so that it may 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**

**352. Proclamation of Emergency.**—(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 <sup>1</sup>[armed rebellion], he may, by Proclamation, make a declaration to that effect <sup>2</sup>[in respect of the whole of India or of such part of the territory thereof as may be specified in the Proclamation.]

<sup>3</sup>[*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.]

<sup>4</sup>[(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:

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1. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 37, for "internal disturbance" (w.e.f. 20-6-1979).

2. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 48 (w.e.f. 3-1-1977).

3. Ins. 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).

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.

(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.]

<sup>1</sup>[(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 <sup>2</sup>[armed rebellion] or imminent danger of war or external aggression or <sup>2</sup>[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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**353. Effect of Proclamation of Emergency.**—While a Proclamation of Emergency is in operation, then—

(a) notwithstanding anything in this Constitution, the executive power of the Union shall extend to the giving of directions to any State as to the manner in which the executive power thereof is to be exercised;

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

1. Cls. (4) and (5) ins. by the Constitution (Thirty-eighth Amendment) Act, 1975, s. 5 (with retrospective effect) and subsequently cl. (4) renumbered as cl. (9) and cl. (5) omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 37 (w.e.f. 20-6-1979).

2. Subs. by s. 37, *ibid.* for "internal disturbance" (w.e.f. 20-6-1979).



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

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

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

**356. Provisions in case of failure of constitutional machinery in States.**—(1) If the President, on receipt of a report from the Governor <sup>2\*\*\*</sup> 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—

1. Added by the Constitution (Forty-second Amendment) Act, 1976, s. 49 (w.e.f. 3-1-1977).

2. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

(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 <sup>1\*\*\*</sup> 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.

(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.

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1. The words "or Rajpramukh, as the case may be" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

(4) A Proclamation so approved shall, unless revoked, cease to operate on the expiration of a period of <sup>1</sup>[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 <sup>2</sup>[six months] from the date on which under this clause it 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 <sup>2</sup>[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:

<sup>3</sup>[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 <sup>4</sup>[five years].]

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1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 50, for "six months" (w.e.f. 3-1-1977) and further subs. 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).
  2. Subs. by s. 50, *ibid.*, for "six months" (w.e.f. 3-1-1977) and further subs. by s. 38, *ibid.*, for "one year", respectively (w.e.f. 20-6-1979).
  3. Ins. by the Constitution (Sixty-fourth Amendment) Act, 1990, s. 2 (w.e.f. 16-4-1990).
  4. Subs. by the Constitution (Sixty-seventh Amendment) Act, 1990, s. 2 (w.e.f. 4-10-1990) and further subs. by the Constitution (Sixty-eighth Amendment) Act, 1991, s. 2 (w.e.f. 12-3-1991).

<sup>1</sup>[(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

(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:]

<sup>2</sup>[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. Exercise of legislative powers under Proclamation issued under article 356.**—(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—

(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.

1. Ins. by the Constitution (Thirty-eighth Amendment) Act, 1975, s. 6 (with retrospective effect) and subsequently subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 38, for cl. (5) (w.e.f. 20-6-1979).

2. Proviso omitted by the Constitution (Sixty-third Amendment) Act, 1989, s. 2 (w.e.f. 6-1-1990) and subsequently ins. by the Constitution (Sixty-fourth Amendment) Act, 1990, s. 2 (w.e.f. 16-4-1990).

<sup>1</sup>[(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) 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.]

**358. Suspension of provisions of article 19 during emergencies.—**

<sup>2</sup>[(1)] <sup>3</sup>[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:

<sup>4</sup>[Provided that <sup>5</sup>[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.]

<sup>6</sup>[(2) Nothing in clause (1) shall apply—

1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 51 (w.e.f. 3-1-1977).

2. Art. 358 re-numbered as cl. (1) by the Constitution (Forty-fourth Amendment) Act, 1978, s. 39 (w.e.f. 20-6-1979).

3. Subs. by s. 39, *ibid.* for "While a Proclamation of Emergency is in operation" (w.e.f. 20-6-1979).

4. Added by the Constitution (Forty-second Amendment) Act, 1976, s. 52 (w.e.f. 3-1-1977).

5. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 39, for "where a Proclamation of Emergency" (w.e.f. 20-6-1979).

6. Ins. by s. 39, *ibid.* (w.e.f. 20-6-1979).

(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.]

**359. Suspension of the enforcement of the rights conferred by Part III during emergencies.**—(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 <sup>1</sup>[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.

<sup>2</sup>[(1A) While an order made under clause (1) mentioning any of <sup>1</sup>[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:]

<sup>3</sup>[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.]

1. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 40, for "the rights conferred by Part III" (w.e.f. 20-6-1979).

2. Ins. by the Constitution (Thirty-eighth Amendment) Act, 1975, s. 7 (with retrospective effect).

3. Added by the Constitution (Forty-second Amendment) Act, 1976, s. 53 (w.e.f. 3-1-1977).

<sup>1</sup>[(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:

<sup>2</sup>[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.

<sup>3</sup>**359A.** [*Application of this Part to the State of Punjab.*].—*Omitted by the Constitution (Sixty-third Amendment) Act, 1989, s. 3 (w.e.f. 6-1-1990).*

**360. Provisions as to financial emergency.**—(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.

<sup>4</sup>[(2) A Proclamation issued under clause (1)—

(a) may be revoked or varied by a subsequent Proclamation;

(b) shall be laid before each House of Parliament;

1. Ins. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 40 (w.e.f. 20-6-1979).

2. Added by the Constitution (Forty-second Amendment) Act, 1976, s. 53 (w.e.f. 3-1-1977).

3. Ins. by the Constitution (Fifty-ninth Amendment) Act, 1988, s. 3 (w.e.f. 30-3-1988) and ceased to operate on the expiry of a period of two years from the commencement of that Act, *i.e.* 30<sup>th</sup> day of March, 1988.

4. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 41, for cl. (2) (w.e.f. 20-6-1979).

(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;

(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.

<sup>1</sup>[(5) \* \* \* \* \*]

1. Ins. by the Constitution (Thirty-eighth Amendment) Act, 1975, s. 8 (with retrospective effect) and omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 41 (w.e.f. 20-6-1979).



**PART XIX**  
**MISCELLANEOUS**

**361. Protection of President and Governors and Rajpramukhs.—(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:

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 <sup>1\*\*\*</sup> 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 <sup>1\*\*\*</sup> 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 <sup>1\*\*\*</sup> 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 <sup>1\*\*\*</sup> of such State, until the expiration of two months next after notice in writing has been delivered to the President or the Governor <sup>1\*\*\*</sup>, 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 residence of the party by whom such proceedings are to be instituted and the relief which he claims.

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1. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

<sup>1</sup>[**361A. Protection of publication of proceedings of Parliament and State Legislatures.**—(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.]

<sup>2</sup>[**361B. Disqualification for appointment on remunerative political post.**—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;

(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

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1. Art. 361A ins. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 42 (w.e.f. 20-6-1979).

2. Art. 361B ins. by the Constitution (Ninety-first Amendment) Act, 2003, s. 4 (w.e.f. 1-1-2004).

(ii) under a body, whether incorporated or not, which is wholly or partially owned by the Government of India or the Government of 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.*].—*Omitted by the Constitution (Twenty-sixth Amendment) Act, 1971, s. 2 (w.e.f. 28-12-1971).*

**363. Bar to interference by courts in disputes arising out of certain treaties, agreements, etc.**—(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.

(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.

<sup>1</sup>[**363A. Recognition granted to Rulers of Indian States to cease and privy purses to be abolished.**—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;

1. Art. 363A ins. by the Constitution (Twenty-sixth Amendment) Act, 1971, s. 3 (w.e.f. 28-12-1971).

(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*.]

**364. Special provisions as to major ports and aerodromes.—**(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.

**365. Effect of failure to comply with, or to give effect to, directions given by the Union.**—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.

**366. Definitions.**—In this Constitution, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

(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;

<sup>1</sup>[(4A)\* \* \* \*]

(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 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;

1. Cl. (4A) was ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 54 (w.e.f. 1-2-1977) and subsequently omitted by the Constitution (Forty-third Amendment) Act, 1977, s. 11 (w.e.f. 13-4-1978).

(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;

<sup>1</sup>[(12A) “goods and services tax” means any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption];

(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

(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;

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1. Ins. by the Constitution (One Hundred and First Amendment) Act, 2016, s. 14(i) (w.e.f. 16-9-2016).

(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;

<sup>1</sup>[(21)\* \* \* \*]

<sup>2</sup>[(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, races 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;

1. Cl. (21) omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

2. Subs. by the Constitution (Twenty-sixth Amendment) Act, 1971, s. 4 (w.e.f. 28-12-1971).

(26) “securities” includes stock;

1 \* \* \*

<sup>2</sup>[(26A) “Services” means anything other than goods;

(26B) “State” with reference to articles 246A, 268, 269, 269A and article 279A includes a Union territory with Legislature];

<sup>3</sup>[(26C) “socially and educationally backward classes” means such backward classes as are so deemed under article 342A for the purposes of the Central Government or the State or Union territory, as the case may be];

(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;

<sup>4</sup>[(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;

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1. Cl. (26A) was ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 54 (w.e.f. 1-2-1977), and subsequently omitted by the Constitution (Forty-third Amendment) Act, 1977, s. 11 (w.e.f. 13-4-1978).
  2. Ins. by the Constitution (One Hundred and First Amendment) Act, 2016, s. 14(ii) (w.e.f. 16-9-2016).
  3. Cl. (26C) was ins. by the Constitution (One Hundred and second Amendment) Act, 2018, s. 5 (w.e.f. 14-8-2018), and subsequently subs. by the Constitution (One Hundred and Fifth Amendment) Act, 2021, s. 4 (w.e.f. 15-9-2021).
  4. Cl. (29A) ins. by the Constitution (Forty-sixth Amendment) Act, 1982, s. 4 (w.e.f. 2-2-1983).



(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;

(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;]

<sup>1</sup>[(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. Interpretation.**—(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.

(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 <sup>2\*\*\*</sup>, shall be construed as including a reference to an Ordinance made by the President or, to an Ordinance made by a Governor <sup>3\*\*\*</sup>, 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 order<sup>4</sup> declare any State not to be a foreign State for such purposes as may be specified in the order.

<sup>5</sup>[(4) \* \* \* \* \*]

1. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. for cl. (30) (w.e.f. 1-11-1956).

2. The words and letters "specified in Part A or Part B of the First Schedule" omitted by s. 29 and Sch., *ibid.* (w.e.f. 1-11-1956).

3. The words "or Rajpramukh" omitted by s. 29 and Sch., *ibid.* (w.e.f. 1-11-1956).

4. See the Constitution (Declaration as to Foreign States) Order, 1950 (C.O. 2).

5. Added by the Constitution (Application to Jammu and Kashmir) Order, 2019 (C.O. 272) (w.e.f. 5-8-2019), for the text of this C.O., see Appendix II.

## PART XX

### AMENDMENT OF THE CONSTITUTION

**368.** <sup>1</sup>[Power of Parliament to amend the Constitution and procedure therefor].— <sup>2</sup>[(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.]

<sup>3</sup>[(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, <sup>4</sup>[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, <sup>5</sup>[ article 162, article 241 or article 279A]; 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,

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1. Subs. by the Constitution (Twenty-fourth Amendment) Act, 1971, s. 3, for "Procedure for amendment of the Constitution" (w.e.f. 5-11-1971).

2. Ins. by s. 3, *ibid.* (w.e.f. 5-11-1971).

3. Art. 368 re-numbered as cl. (2) thereof by s. 3, *ibid.* (w.e.f. 5-11-1971).

4. Subs. by s. 3, *ibid.*, (w.e.f. 5-11-1971).

5. Subs. by the Constitution (One Hundred and First Amendment) Act, 2016, s. 15, for the words and figures "article 162 or article 241" (w.e.f. 16-9-2016).

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

<sup>2</sup>[(3) Nothing in article 13 shall apply to any amendment made under this article.]

<sup>3</sup>[(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.]

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1. The words and letters "specified in Part A and Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).
  2. Ins. by the Constitution (Twenty-fourth Amendment) Act, 1971, s. 3 (w.e.f. 5-11-1971).
  3. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 55 (w.e.f. 3-1-1977).  
This section has been declared invalid by the Supreme Court in *Minerva Mills Ltd. and Others Vs. Union of India and Others* AIR 1980 SC 1789.

## PART XXI

<sup>1</sup>[TEMPORARY, TRANSITIONAL AND

SPECIAL PROVISIONS]

**369. 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.**—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.

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1. Subs. 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)

**\*\*1[370. Temporary provisions with respect to the State of Jammu and Kashmir.—**(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

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\*\* In exercise of the powers conferred by clause (3) of article 370 read with clause (1) of article 370 of the Constitution of India, the President, on the recommendation of Parliament, is pleased to declare that, as from the 6<sup>th</sup> August, 2019 all clauses of said article 370 shall cease to be operative except the following which shall read as under, namely:—

“370. All provisions of this Constitution, as amended from time to time, without any modifications or exceptions, shall apply to the State of Jammu and Kashmir notwithstanding anything contrary contained in article 152 or article 308 or any other article of this Constitution or any other provision of the Constitution of Jammu and Kashmir or any law, document, judgment, ordinance, order, by-law, rule, regulation, notification, custom or usage having the force of law in the territory of India, or any other instrument, treaty or agreement as envisaged under article 363 or otherwise.”.

(See Appendix III) (C.O. 273).

1. In exercise of the powers conferred by clause (3) of the Constitution of India, 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.”.

(C.O. 44, dated the 15th November, 1952).

\*Now “Governor”.

(Part XXI.—Temporary, Transitional and Special Provisions)

(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 exceptions and modifications as the President may by order\* 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 <sup>1</sup>[clause (2) of Legislative Assembly of the State] shall be necessary before the President issues such a notification.

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\* See Appendix II.

1. Subs. by C.O. 272, dated the 5-8-2019, s.2. for "Constituent Assembly of the State referred to in clause (2)" (w.e.f. 5-8-2019).

(Part XXI.—Temporary, Transitional and Special Provisions)

<sup>1</sup>[371. Special provision with respect to the States of <sup>2\*\*\*</sup>  
 Maharashtra and Gujarat.—<sup>3</sup>[(1)\* \* \* \* \*]

(2) Notwithstanding anything in this Constitution, the President may by order made with respect to <sup>4</sup>[the State of Maharashtra or Gujarat], provide for any special responsibility of the Governor for—

(a) the establishment of separate development boards for Vidarbha, Marathwada, <sup>5</sup>[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.]

<sup>6</sup>[371A. Special provision with respect to the State of Nagaland.—(1) Notwithstanding anything in this Constitution,—

(a) no Act of Parliament in respect of—

(i) religious or social practices of the Nagas;

(ii) Naga customary law and procedure;

(iii) administration of civil and criminal justice involving decisions according to Naga customary law;

(iv) ownership and transfer of land and its resources,

shall apply to the State of Nagaland unless the Legislative Assembly of Nagaland by a resolution so decides;

1. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 22, for art. 371 (w.e.f. 1-11-1956).

2. The words "Andhra Pradesh", omitted by the Constitution (Thirty-second Amendment) Act, 1973, s. 2 (w.e.f. 1-7-1974).

3. Cl. (1) omitted by s. 2, *ibid.* (w.e.f. 1-7-1974).

4. Subs. by the Bombay Reorganisation Act, 1960 (11 of 1960), s. 85, for "the State of Bombay" (w.e.f. 1-5-1960).

5. Subs. by s. 85, *ibid.*, for "the rest of Maharashtra" (w.e.f. 1-5-1960).

6. Art. 371A ins. by the Constitution (Thirteenth Amendment) Act, 1962, s. 2 (w.e.f. 1-12-1963).

(b) the Governor of Nagaland shall have special responsibility with respect to law and order in the State of Nagaland for so long as in his opinion internal disturbances occurring in the Naga Hills-Tuensang Area immediately before the formation of that State continue therein or in any part thereof and in the discharge of his functions in relation thereto the Governor shall, after consulting the Council of Ministers, exercise his individual judgment as to the action to be taken:

Provided that if any question arises whether any matter is or is not a matter as respects which the Governor is under this sub-clause required to act in the exercise of his individual judgment, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in the exercise of his individual judgment:

Provided further that if the President on receipt of a report from the Governor or otherwise is satisfied that it is no longer necessary for the Governor to have special responsibility with respect to law and order in the State of Nagaland, he may by order direct that the Governor shall cease to have such responsibility with effect from such date as may be specified in the order;

(c) in making his recommendation with respect to any demand for a grant, the Governor of Nagaland shall ensure that any money provided by the Government of India out of the Consolidated Fund of India for any specific service or purpose is included in the demand for a grant relating to that service or purpose and not in any other demand;

(d) as from such date as the Governor of Nagaland may by public notification in this behalf specify, there shall be established a regional council for the Tuensang district consisting of thirty-five members and the Governor shall in his discretion make rules providing for—

(i) the composition of the regional council and the manner in which the members of the regional council shall be chosen:

Provided that the Deputy Commissioner of the Tuensang district shall be the Chairman *ex officio* of the regional council and the Vice-Chairman of the regional council shall be elected by the members thereof from amongst themselves;

(ii) the qualifications for being chosen as, and for being, members of the regional council;

(iii) the term of office of, and the salaries and allowances, if any, to be paid to members of, the regional council;



(Part XXI.—Temporary, Transitional and Special Provisions)

- (iv) the procedure and conduct of business of the regional council;
- (v) the appointment of officers and staff of the regional council and their conditions of services; and
- (vi) any other matter in respect of which it is necessary to make rules for the constitution and proper functioning of the regional council.

(2) Notwithstanding anything in this Constitution, for a period of ten years from the date of the formation of the State of Nagaland or for such further period as the Governor may, on the recommendation of the regional council, by public notification specify in this behalf,—

(a) the administration of the Tuensang district shall be carried on by the Governor;

(b) where any money is provided by the Government of India to the Government of Nagaland to meet the requirements of the State of Nagaland as a whole, the Governor shall in his discretion arrange for an equitable allocation of that money between the Tuensang district and the rest of the State;

(c) no Act of the Legislature of Nagaland shall apply to Tuensang district unless the Governor, on the recommendation of the regional council, by public notification so directs and the Governor in giving such direction with respect to any such Act may direct that the Act shall in its application to the Tuensang district or any part thereof have effect subject to such exceptions or modifications as the Governor may specify on the recommendation of the regional council:

Provided that any direction given under this sub-clause may be given so as to have retrospective effect;

(d) the Governor may make regulations for the peace, progress and good government of the Tuensang district and any regulations so made may repeal or amend with retrospective effect, if necessary, any Act of Parliament or any other law which is for the time being applicable to that district;

(e) (i) one of the members representing the Tuensang district in the Legislative Assembly of Nagaland shall be appointed Minister for Tuensang affairs by the Governor on the advice of the Chief Minister and the Chief Minister in tendering his advice shall act on the recommendation of the majority of the members as aforesaid<sup>1</sup>;

1. Paragraph 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)

(ii) the Minister for Tuensang affairs shall deal with, and have direct access to the Governor on, all matters relating to the Tuensang district but he shall keep the Chief Minister informed about the same;

(f) notwithstanding anything in the foregoing provisions of this clause, the final 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.]

<sup>1</sup>[**371B. Special provision with respect to the State of Assam.**—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

1. Ins. by the Constitution (Twenty-second Amendment) Act, 1969, s. 4 (w.e.f. 25-9-1969).

members of that Assembly elected from the tribal areas specified in <sup>1</sup>[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.]

<sup>2</sup>[**371C. Special provision with respect to the State of Manipur.**—(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.]

<sup>3</sup>[**371D. Special provisions with respect to** <sup>4</sup>**[the State of Andhra Pradesh or the State of Telangana].**—<sup>5</sup>[(1) The President may by order made with respect to the State of Andhra Pradesh or the State of Telangana, provide, having regard to the requirement of each State, for equitable opportunities and facilities for the people belonging to different parts of such State, in the matter of public employment and in the matter of education, and different provisions may be made for various parts of the States.]

1. Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71, for “Part A” (w.e.f. 21-1-1972).

2. Art 371C ins. by the Constitution (Twenty-seventh Amendment) Act, 1971, s. 5 (w.e.f. 15-2-1972).

3. Art 371D and Art 371E ins. by the Constitution (Thirty-second Amendment) Act, 1973, s. 3 (w.e.f. 1-7-1974).

4. Subs. by the Andhra Pradesh Reorganisation Act, 2014, (6 of 2014), s. 97, for “the State of Andhra Pradesh” (w.e.f. 2-6-2014).

5. Subs. by s. 97, *ibid*, for cl. (1) (w.e.f. 2-6-2014).

(Part XXI.—Temporary, Transitional and Special Provisions)

(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;

(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 <sup>1</sup>[the State of Andhra Pradesh and for the State of Telangana] 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:—

1. Subs. by the Andhra Pradesh Reorganisation Act, 2014, (6 of 2014), s. 97, for “the State of Andhra Pradesh” (w.e.f. 2-6-2014).

(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.

(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.

\*(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 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

(b) no action taken or thing done by or before any person referred to in sub-clause (a),

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\* *In P. Sambamurthy and Others Vs. State of Andhra Pradesh and Others* (1987) 1 S.C.C. 362, the Supreme Court declared cl. (5) of art. 371D along with the proviso to be unconstitutional and void.

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. Establishment of Central University in Andhra Pradesh.**—Parliament may by law provide for the establishment of a University in the State of Andhra Pradesh.]

<sup>1</sup>[**371F. Special provisions with respect to the State of Sikkim.**—Notwithstanding anything in this Constitution,—

(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;

(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;

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1. Art 371F ins. by the Constitution (Thirty-sixth Amendment) Act, 1975, s. 3 (w.e.f. 26-4-1975).

(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 <sup>1</sup>[five years], in clause (1) of article 172 shall be construed as references to a period of <sup>2</sup>[four years] and the said period of <sup>2</sup>[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 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;

1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 56, for "five years" (w.e.f. 3-1-1977) and further subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 43, for "six years" (w.e.f. 6-9-1979).

2. Subs. by s. 56, *ibid.*, for "four years" (w.e.f. 3-1-1977) and further subs. by s. 43, *ibid.*, for "five years", respectively (w.e.f. 6-9-1979).



(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;

(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 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:

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\* See the Constitution (Removal of Difficulties) Order No. XI (C.O. 99).

(Part XXI.—Temporary, Transitional and Special Provisions)

Provided that no such order shall be made after the expiry of two years from the appointed day;

(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.]

<sup>1</sup>[**371G. Special provision with respect to the State of Mizoram.**—Notwithstanding anything in this Constitution,—

(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.]

<sup>2</sup>[**371H. Special provision with respect to the State of Arunachal Pradesh.**—Notwithstanding anything in this Constitution,—

(a) the Governor of Arunachal Pradesh shall have special responsibility with respect to law and order 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:

1. Art. 371G ins. by the Constitution (Fifty-third Amendment) Act, 1986.s. 2 (w.e.f. 20-2-1987).

2. Art. 371H ins. by the Constitution (Fifty-fifth Amendment) Act, 1986, s. 2 (w.e.f. 20-2-1987).

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.]

<sup>1</sup>[**371-I. Special provision with respect to the State of Goa.**—Notwithstanding anything in this Constitution, the Legislative Assembly of the State of Goa shall consist of not less than thirty members.]

<sup>2</sup>[**371J. Special provisions with respect to State of Karnataka.**—(1) The President may, by order made with respect to the State of Karnataka, provide for any special responsibility of the Governor for—

(a) establishment of a separate development board for Hyderabad-Karnataka region with the provision that a report on the working of the board will be placed each year before the State Legislative Assembly;

(b) equitable allocation of funds for developmental expenditure over the said region, subject to the requirements of the State as a whole; and

(c) equitable opportunities and facilities for the people belonging to the said region, in matters of public employment, education and vocational training, subject to the requirements of the State as a whole.

(2) An order made under sub- clause (c) of clause (1) may provide for—

(a) reservation of a proportion of seats educational and vocational training institutions in the Hyderabad-Karnataka region for students who belong to that region by birth or by domicile; and

1. Art. 371-I ins. by the Constitution (Fifty-sixth Amendment) Act, 1987, s. 2 (w.e.f. 30-5-1987).

2. Art. 371J ins. by the Constitution (Ninety-eighth Amendment) Act, 2012, s. 2 (w.e.f. 1-10-2013).

(b) identification of posts or classes of posts under the State Government and in any body or organisation under the control of the State Government in the Hyderabad-Karnataka region and reservation of a proportion of such posts for persons who belong to that region by birth or by domicile and for appointment thereto by direct recruitment or by promotion or in any other manner as may be specified in the order.]

**372. Continuance in force of existing laws and their adaptation.**—(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 bringing the provisions of any law in force in the territory of India into accord with the provisions of this Constitution, the President may by order\* 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 <sup>1</sup>[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.

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\* See 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 the 2nd July, 1952, Gazette of India, Extraordinary, Part II, Section 3, p. 616/1, 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.

1. Subs. by the Constitution (First Amendment) Act, 1951, s.12 for "two years" (w.e.f. 18-6-1951).

*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.

*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.

<sup>1</sup>[**372A. Power of the President to adapt laws.**—(1) For the purposes of bringing the provisions of any law in force in India or in any part thereof, immediately before the commencement of the Constitution (Seventh Amendment) Act, 1956, into accord with the provisions of this Constitution as amended by that Act, the President may by order\* made before the 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.]

1. Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 23 (w.e.f. 1-11-1956).

\* See the Adaptation of Laws Order of 1956 and 1957.

**373. Power of President to make order in respect of persons under preventive detention in certain cases.**—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 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. Provisions as to Judges of the Federal Court and proceedings pending in the Federal Court or before His Majesty in Council.**—(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.

(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 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.

**375. Courts, authorities and officers to continue to function subject to the provisions of the Constitution.**—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.

**376. Provisions as to Judges of High Courts.**—(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. <sup>1</sup>[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.

(3) In this article, the expression “Judge” does not include an acting Judge or an additional Judge.

**377. Provisions as to Comptroller and Auditor-General of India.**—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.

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1. Added by the Constitution (First Amendment) Act, 1951, s. 13 (w.e.f. 18-6-1951).

**378. Provisions as to Public Service Commissions.**—(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.

(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.

<sup>1</sup>**[378A. Special provision as to duration of Andhra Pradesh Legislative Assembly.**—Notwithstanding anything contained in article 172, the Legislative Assembly of the State of Andhra Pradesh as constituted under the provisions of sections 28 and 29 of the States Reorganisation Act, 1956, shall, unless sooner dissolved, continue for a period of five years from the date referred to in the said section 29 and no longer and the expiration of the said period shall operate as a dissolution of that Legislative Assembly.]

**379.** *[Provisions as to provisional Parliament and the Speaker and Deputy Speaker thereof].—Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).*

**380.** *[Provision as to President].—Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).*

**381.** *[Council of Ministers of the President].—Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).*

**382.** *[Provisions as to provisional Legislatures for States in Part A of the First Schedule].—Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).*

**383.** *[Provision as to Governors of Provinces].—Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).*

1. Art 378A ins. by the Constitution (Seventh Amendment) Act, 1956, s. 24 (w.e.f. 1-11-1956).



**384.** [*Council of Ministers of the Governors.*].—Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

**385.** [*Provision as to provisional Legislatures in States in Part B of the First Schedule.*].—Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

**386.** [*Council of Ministers for States in Part B of the First Schedule.*].—Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

**387.** [*Special provision as to determination of population for the purposes of certain elections.*].—Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

**388.** [*Provisions as to the filling of casual vacancies in the provisional Parliament and provisional Legislatures of the States.*].—Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

**389.** [*Provision as to Bills pending in the Dominion Legislatures and in the Legislatures of Provinces and Indian States.*] —Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

**390.** [*Money received or raised or expenditure incurred between the commencement of the Constitution and the 31st day of March, 1950.*].—Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

**391.** [*Power of the President to amend the First and Fourth Schedules in certain contingencies.*].—Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

**392. Power of the President to remove difficulties.**—(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.

## PART XXII

### SHORT TITLE, COMMENCEMENT, <sup>1</sup>[AUTHORITATIVE TEXT IN HINDI] AND REPEALS

**393. Short title.**—This Constitution may be called the Constitution of India.

**394. Commencement.**—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.

<sup>2</sup>[**394A. Authoritative text in the Hindi language.**—(1) The President shall cause to be published under his authority,—

(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 deemed to be, for all purposes, the authoritative text thereof in the Hindi language.]

**395. Repeals.**— 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.

1. Ins. by the Constitution (Fifty-eighth Amendment) Act, 1987, s. 2 (w.e.f. 9-12-1987).

2. Art 394A, Ins. by s. 3, *ibid.* (w.e.f. 9-12-1987).

<sup>1</sup>[FIRST SCHEDULE

[Articles 1 and 4]

I. THE STATES

<i>Name</i>	<i>Territories</i>
1. Andhra Pradesh	<sup>2</sup> [The territories specified in sub-section (1) of section 3 of the Andhra State Act, 1953, sub-section (1) of section 3 of the States Reorganisation Act, 1956, the First Schedule to the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959, and the Schedule to the Andhra Pradesh and Mysore (Transfer of Territory) Act, 1968, but excluding the territories specified in the Second Schedule to the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959] <sup>3</sup> [and the territories specified in section 3 of the Andhra Pradesh Reorganisation Act, 2014].
2. Assam	The territories which immediately before the commencement of this Constitution were comprised in the Province of Assam, the Khasi States and the Assam Tribal Areas, but excluding the territories specified in the Schedule to the Assam (Alteration of Boundaries) Act, 1951 <sup>4</sup> [and the territories specified in sub-section (1) of section 3 of the State of Nagaland Act, 1962] <sup>5</sup> [and the territories specified in sections 5, 6 and 7 of the North-Eastern Areas (Reorganisation) Act, 1971] <sup>6</sup> [and the territories referred to in Part I of the Second Schedule to the Constitution (One Hundredth Amendment) Act, 2015, notwithstanding anything contained in clause (a) of section 3 of the Constitution (Ninth Amendment) Act, 1960, so far as it relates to the territories referred to in Part I of the Second Schedule to the Constitution (One Hundredth Amendment) Act, 2015.]

1. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 2, for the First Sch. (w.e.f. 1-11-1956).

2. Subs. by the Andhra Pradesh and Mysore (Transfer of Territory) Act, 1968 (36 of 1968), s. 4, for the former entry (w.e.f. 1-10-1968).

3. Ins. by the Andhra Pradesh Reorganisation Act, 2014 (6 of 2014), s. 10 (w.e.f. 2-6-2014).

4. Added by the State of Nagaland Act, 1962 (27 of 1962), s. 4 (w.e.f. 1-12-1963).

5. Added by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 9 (w.e.f. 21-1-1972).

6. Added by the Constitution (One Hundredth Amendment) Act, 2015, s. 3 (w.e.f. 31-7-2015). For the text of the Act, see Appendix I.

<i>Name</i>	<i>Territories</i>
3. Bihar	<sup>1</sup> [The territories which immediately before the commencement of this Constitution were either comprised in the Province of Bihar or were being administered as if they formed part of that Province and the territories specified in clause (a) of sub-section (1) of section 3 of the Bihar and Uttar Pradesh (Alteration of Boundaries) Act, 1968, but excluding the territories specified in sub-section (1) of section 3 of the Bihar and West Bengal (Transfer of Territories) Act, 1956, and the territories specified in clause (b) of sub-section (1) of section 3 of the first mentioned Act <sup>2</sup> [and the territories specified in section 3 of the Bihar Reorganisation Act, 2000].]
<sup>3</sup> [4. Gujarat	The territories referred to in sub-section (1) of section 3 of the Bombay Reorganisation Act, 1960.]
5. Kerala	The territories specified in sub-section (1) of section 5 of the States Reorganisation Act, 1956.
6. Madhya Pradesh	The territories specified in sub-section (1) of section 9 of the States Reorganisation Act, 1956 <sup>4</sup> [and the First Schedule to the Rajasthan and Madhya Pradesh (Transfer of Territories) Act, 1959], <sup>5</sup> [but excluding the territories specified in section 3 of the Madhya Pradesh Reorganisation Act, 2000].

1. Subs. by the Bihar and Uttar Pradesh (Alteration of Boundaries) Act, 1968 (24 of 1968), s. 4, for the former entry (w.e.f. 10-6-1970).

2. Added by the Bihar Reorganisation Act, 2000 (30 of 2000), s. 5 (w.e.f. 15-11-2000).

3. Subs. by the Bombay Reorganisation Act, 1960 (11 of 1960), s. 4 (w.e.f. 1-5-1960).

4. Ins. by the Rajasthan and Madhya Pradesh (Transfer of Territories) Act, 1959 (47 of 1959), s. 4 (w.e.f. 1-10-1959).

5. Added by the Madhya Pradesh Reorganisation Act, 2000 (28 of 2000), s. 5 (w.e.f. 1-11-2000).

<i>Name</i>	<i>Territories</i>
<sup>1</sup> [7. Tamil Nadu]	The territories which immediately before the commencement of this Constitution were either comprised in the Province of Madras or were being administered as if they formed part of that Province and the territories specified in section 4 of the States Reorganisation Act, 1956, <sup>2</sup> [and the Second Schedule to the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959], but excluding the territories specified in sub-section (1) of section 3 and sub-section (1) of section 4 of the Andhra State Act, 1953 and <sup>3</sup> [the territories specified in clause (b) of sub-section (1) of section 5, section 6 and clause (d) of sub-section (1) of section 7 of the States Reorganisation Act, 1956 and the territories specified in the First Schedule to the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959.]
<sup>4</sup> [8. Maharashtra]	The territories specified in sub-section (1) of section 8 of the States Reorganisation Act, 1956, but excluding the territories referred to in sub-section (1) of section 3 of the Bombay Reorganisation Act, 1960.]
<sup>5</sup> [9.] Karnataka]	The territories specified in sub-section (1) of section 7 of the States Reorganisation Act, 1956 <sup>7</sup> [but excluding the territory specified in the Schedule to the Andhra Pradesh and Mysore (Transfer of Territory) Act, 1968.]

1. Subs. by the Madras State (Alteration of Name) Act, 1968 (53 of 1968), s. 5, for "7. Madras" (w.e.f. 14-1-1969).
2. Ins. by the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959 (56 of 1959), s. 6 (w.e.f. 1-4-1960).
3. Subs. by s. 6, *ibid.*, for certain words (w.e.f. 1-4-1960).
4. Ins. by the Bombay Reorganisation Act, 1960 (11 of 1960), s. 4 (w.e.f. 1-5-1960).
5. Subs. by the Mysore State (Alteration of Name) Act, 1973 (31 of 1973), s. 5, for "9. Mysore" (w.e.f. 1-11-1973).
6. Entries 8 to 14 renumbered as entries 9 to 15 by the Bombay Reorganisation Act, 1960 (11 of 1960), s. 4 (w.e.f. 1-5-1960).
7. Ins. by the Andhra Pradesh and Mysore (Transfer of Territory) Act, 1968 (36 of 1968), s. 4 (w.e.f. 1-10-1968).

<i>Name</i>	<i>Territories</i>
<sup>1</sup> [10.] <sup>2</sup> [Odisha]	The territories which immediately before the commencement of this Constitution were either comprised in the Province of Orissa or were being administered as if they formed part of that Province.
<sup>1</sup> [11.] Punjab	The territories specified in section 11 of the States Reorganisation Act, 1956 <sup>3</sup> [and the territories referred to in Part II of the First Schedule to the Acquired Territories (Merger) Act, 1960] <sup>4</sup> [but excluding the territories referred to in Part II of the First Schedule to the Constitution (Ninth Amendment) Act, 1960] <sup>5</sup> [and the territories specified in sub-section (1) of section 3, section 4 and sub-section (1) of section 5 of the Punjab Reorganisation Act, 1966.]
<sup>1</sup> [12.] Rajasthan	The territories specified in section 10 of the States Reorganisation Act, 1956 <sup>6</sup> [but excluding the territories specified in the First Schedule to the Rajasthan and Madhya Pradesh (Transfer of Territories) Act, 1959].

1. Entries 8 to 14 renumbered as entries 9 to 15 by the Bombay Reorganisation Act, 1960 (11 of 1960), s. 4 (w.e.f. 1-5-1960).
2. Subs. by the Orissa (Alteration of Name) Act, 2011 (15 of 2011), s. 6, for "Orissa" (w.e.f. 1-11-2011).
3. Ins. by the Acquired Territories (Merger) Act, 1960 (64 of 1960), s. 4 (w.e.f. 17-1-1961).
4. Added by the Constitution (Ninth Amendment) Act, 1960, s. 3 (w.e.f. 17-1-1961).
5. Added by the Punjab Reorganisation Act, 1966 (31 of 1966), s. 7 (w.e.f. 1-11-1966).
6. Ins. by the Rajasthan and Madhya Pradesh (Transfer of Territories) Act, 1959 (47 of 1959), s. 4 (w.e.f. 1-10-1959).

<i>Name</i>	<i>Territories</i>
<sup>1</sup> [13.] Uttar Pradesh	<sup>2</sup> [The territories which immediately before the commencement of this Constitution were either comprised in the Province known as the United Provinces or were being administered as if they formed part of that Province, the territories specified in clause (b) of sub-section (I) of section 3 of the Bihar and Uttar Pradesh (Alteration of Boundaries) Act, 1968, and the territories specified in clause (b) of sub-section (I) of section 4 of the Haryana and Uttar Pradesh (Alteration of Boundaries) Act, 1979, but excluding the territories specified in clause (a) of sub-section (I) of section 3 of the Bihar and Uttar Pradesh (Alteration of Boundaries) Act, 1968, <sup>3</sup> [and the territories specified in section 3 of the Uttar Pradesh Reorganisation Act, 2000] and the territories specified in clause (a) of sub-section (I) of section 4 of the Haryana and Uttar Pradesh (Alteration of Boundaries) Act, 1979.]
<sup>1</sup> [14.] West Bengal	The territories which immediately before the commencement of this Constitution were either comprised in the Province of West Bengal or were being administered as if they formed part of that Province and the territory of Chandernagore as defined in clause (c) of section 2 of the Chandernagore (Merger) Act, 1954 and also the territories specified in sub-section (I) of section 3 of the Bihar and West Bengal (Transfer of Territories) Act, 1956 <sup>4</sup> [and also the territories referred to in Part III of the First Schedule but excluding the territories referred to in Part III of the Second Schedule to the Constitution (One Hundredth Amendment) Act, 2015, notwithstanding anything contained in clause (c) of section 3 of the Constitution (Ninth Amendment) Act, 1960, so far as it relates to the territories referred to in Part III of the First Schedule and the territories referred to in Part III of the Second Schedule to the Constitution (One Hundredth Amendment) Act, 2015.]

1. Entries 8 to 14 renumbered as entries 9 to 15 by the the Bombay Reorganisation Act, 1960 (11 of 1960), s. 4 (w.e.f. 1-5-1960).
2. Subs. by the Haryana and Uttar Pradesh (Alteration of Boundaries) Act, 1979 (31 of 1979), s. 5, for the entry against "13. Uttar Pradesh" (w.e.f. 15-9-1983).
3. Ins. by the Uttar Pradesh Reorganisation Act, 2000 (29 of 2000), s. 5 (w.e.f. 9-11-2000).
4. Added by the Constitution (One Hundredth Amendment) Act, 2015, s. 3 (w.e.f. 31-7-2015). For the text of the Act, see Appendix I.

<i>Name</i>	<i>Territories</i>
<sup>1</sup> [ <sup>2</sup> **	* * *]
<sup>3</sup> [ <sup>4</sup> [15.] Nagaland	The territories specified in sub-section (1) of section 3 of the State of Nagaland Act, 1962.]
<sup>3</sup> [ <sup>5</sup> [16.] Haryana	<sup>6</sup> [The territories specified in sub-section (1) of section 3 of the Punjab Reorganisation Act, 1966 and the territories specified in clause (a) of sub-section (1) of section 4 of the Haryana and Uttar Pradesh (Alteration of Boundaries) Act, 1979, but excluding the territories specified in clause (v) of sub-section (1) of section 4 of that Act.]]
<sup>3</sup> [ <sup>7</sup> [17.] Himachal Pradesh	The territories which immediately before the commencement of this Constitution were being administered as if they were Chief Commissioners' Provinces under the names of Himachal Pradesh and Bilaspur and the territories specified in sub-section (1) of section 5 of the Punjab Reorganisation Act, 1966.]
<sup>3</sup> [ <sup>8</sup> [18.] Manipur	The territory which immediately before the commencement of this Constitution was being administered as if it were a Chief Commissioner's Province under the name of Manipur.]

1. \*\*Entry 15 relating to Jammu and Kashmir deleted by the Jammu and Kashmir Reorganisation Act, 2019 (34 of 2019), s. 6 (w.e.f. 31-10-2019).
2. Entries 8 to 14 renumbered as 9 to 15 by the Bombay Reorganisation Act, 1960 (11 of 1960), s. 4 (w.e.f. 1-5-1960).
3. Entries 16 to 29 renumbered as entries 15 to 28 by the Jammu and Kashmir Reorganisation Act, 2019 (34 of 2019), s. 6 (w.e.f. 31-10-2019).
4. Ins. by the State of Nagaland Act, 1962 (27 of 1962), s. 4 (w.e.f. 1-12-1963).
5. Ins. by the Punjab Reorganisation Act, 1966 (31 of 1966), s. 7 (w.e.f. 1-11-1966) and the entry therein subsequently amended by the Haryana and Uttar Pradesh (Alteration of Boundaries) Act, 1979 (31 of 1979), s. 5 (w.e.f. 15-9-1983).
6. Subs. by the Haryana and Uttar Pradesh (Alteration of Boundaries) Act, 1979 (31 of 1979), s. 5, for the entry against "17. Haryana" (w.e.f. 15-9-1983).
7. Ins. by the State of Himachal Pradesh Act, 1970 (53 of 1970), s. 4 (w.e.f. 25-1-1971).
8. Ins. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 9 (w.e.f. 21-1-1972).



<i>Name</i>	<i>Territories</i>
<sup>1</sup> [19.] Tripura	The territory which immediately before the commencement of this Constitution was being administered as if it were a Chief Commissioner's Province under the name of Tripura <sup>2</sup> [and the territories referred to in Part II of the First Schedule to the Constitution (One Hundredth Amendment) Act, 2015, notwithstanding anything contained in clause (d) of section 3 of the Constitution (Ninth Amendment) Act, 1960, so far as it relates to the territories referred to in Part II of the First Schedule to the Constitution (One Hundredth Amendment) Act, 2015.]
<sup>1</sup> [20.] Meghalaya	The territories specified in section 5 of the North-Eastern Areas (Reorganisation) Act, 1971] <sup>2</sup> [and the territories referred to in Part I of the First Schedule but excluding the territories referred to in Part II of the Second Schedule to the Constitution (One Hundredth Amendment) Act, 2015.]
<sup>1</sup> [ <sup>3</sup> 21.] Sikkim	The territories which immediately before the commencement of the Constitution (Thirty-sixth Amendment) Act, 1975, were comprised in Sikkim.]
<sup>1</sup> [ <sup>4</sup> 22.] Mizoram	The territories specified in section 6 of the North-Eastern Areas (Reorganisation) Act, 1971.]
<sup>1</sup> [ <sup>5</sup> 23.] Arunachal Pradesh	The territories specified in section 7 of the North-Eastern Areas (Reorganisation) Act, 1971.]
<sup>1</sup> [ <sup>6</sup> 24.] Goa	The territories specified in section 3 of the Goa, Daman and Diu Reorganisation Act, 1987.]

1. Entries 16 to 29 renumbered as entries 15 to 28 by the Jammu and Kashmir Reorganisation Act, 2019 (34 of 2019), s. 6 (w.e.f. 31-10-2019).
2. Added by the Constitution (One Hundredth Amendment) Act, 2015, s. 3 (w.e.f. 31-7-2015). For the text of the Act, see Appendix I.
3. Ins. by the Constitution (Thirty-sixth Amendment) Act, 1975, s. 2 (w.e.f. 26-4-1975).
4. Ins. by the State of Mizoram Act, 1986 (34 of 1986), s. 4 (w.e.f. 20-2-1987).
5. Ins. by the State of Arunachal Pradesh Act, 1986 (69 of 1986), s. 4 (w.e.f. 20-2-1987).
6. Ins. by the Goa, Daman and Diu Reorganisation Act, 1987 (18 of 1987), s. 5 (w.e.f. 30-5-1987).

<i>Name</i>	<i>Territories</i>
<sup>1</sup> [25.] Chhattisgarh	The territories specified in section 3 of the Madhya Pradesh Reorganisation Act, 2000.]
<sup>1</sup> [3[26.] <sup>4</sup> [Uttarakhand]	The territories specified in section 3 of the Uttar Pradesh Reorganisation Act, 2000.]
<sup>1</sup> [5[27.] Jharkhand	The territories specified in section 3 of the Bihar Reorganisation Act, 2000.]
<sup>1</sup> [6[28.] Telangana	The territories specified in section 3 of the Andhra Pradesh Reorganisation Act, 2014.]

## II. THE UNION TERRITORIES

<i>Name</i>	<i>Extent</i>
1. Delhi	The territory which immediately before the commencement of this Constitution was comprised in the Chief Commissioner's Province of Delhi.
<sup>7</sup> [* * * * *]	
<sup>8</sup> [2.] The Andaman and Nicobar Islands	The territory which immediately before the commencement of this Constitution was comprised in the Chief Commissioner's Province of the Andaman and Nicobar Islands.

1. Entries 16 to 29 renumbered as entries 15 to 28 by the Jammu and Kashmir Reorganisation Act, 2019 (34 of 2019), s. 6 (w.e.f. 31-10-2019).
2. Added by the Madhya Pradesh Reorganisation Act, 2000 (28 of 2000), s. 5 (w.e.f. 1-11-2000).
3. Ins. by the Uttar Pradesh Reorganisation Act, 2000 (29 of 2000), s. 5 (w.e.f. 9-11-2000).
4. Subs. by the Uttaranchal (Alteration of Name) Act, 2006 (52 of 2006), s. 4, for the word "Uttaranchal" (w.e.f. 1-1-2007).
5. Added by the Bihar Reorganisation Act, 2000 (30 of 2000), s. 5 (w.e.f. 15-11-2000).
6. Ins. by the Andhra Pradesh Reorganisation Act, 2014, s. 10 (w.e.f. 2-6-2014).
7. Entry 2 relating to "Himachal Pradesh" omitted and entries 3 to 10 renumbered as entries 2 to 9 respectively by the State of Himachal Pradesh Act, 1970 (53 of 1970), s. 4 (w.e.f. 25-1-1971) and subsequently entries relating to Manipur and Tripura (i.e. entries 2 and 3) omitted by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971) s. 9 (w.e.f. 21-1-1972).
8. Entries 4 to 9 renumbered as entries 2 to 7 by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 9 (w.e.f. 21-1-1972).

<i>Name</i>	<i>Territories</i>
<sup>1</sup> [3.] <sup>2</sup> [Lakshadweep]	The territory specified in section 6 of the States Reorganisation Act, 1956.
<sup>3</sup> [ <sup>1</sup> [4.] Dadra and Nagar Haveli and Daman and Diu]	The territory which immediately before the eleventh day of August, 1961 was comprised in Free Dadra and Nagar Haveli and the territories specified in section 4 of the Goa, Daman and Diu Reorganisation Act, 1987.]
<sup>4</sup> [ <sup>1</sup> [*] <sup>3</sup> [	* * *
<sup>5</sup> [ <sup>1</sup> [6.] <sup>6</sup> [Puducherry]	The territories which immediately before the sixteenth day of August, 1962, were comprised in the French Establishments in India known as Pondicherry, Karikal, Mahe and Yanam.]
<sup>7</sup> [ <sup>1</sup> [7.] Chandigarh]	The territories specified in section 4 of the Punjab Reorganisation Act, 1966.]

1. Entries 4 to 9 renumbered as entries 2 to 7 (respectively) by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 9 (w.e.f. 21-1-1972).
2. Subs. by the Laccadive, Minicoy and Amindivi Islands (Alteration of Name) Act, 1973 (34 of 1973), s. 5, for "The Laccadive, Minicoy and Amindivi Islands" (w.e.f. 1-11-1973).
3. Entry 4 relating to Dadra and Nagar Haveli was ins. by the Constitution (Tenth Amendment) Act, 1961, s.2 (w.e.f. 11-8-1961). And subsequently subs. by the Dadra and Nagar Haveli Daman and Diu (Merger of Union territories) Act, 2019 (44 of 2019), s. 5 for entries 4 and 5 (w.e.f. 19-12-2019).
4. Subs. by the Goa, Daman and Diu (Reorganisation) Act, 1987 (18 of 1987), s. 5, for entry 5 (w.e.f. 30-5-1987).
5. Ins. by the Constitution (Fourteenth Amendment) Act, 1962, s. 3 (with retrospective effect).
6. Subs. by the Pondicherry (Alteration of Name) Act, 2006 (44 of 2006), s. 5 for "Pondicherry" (w.e.f. 1-10-2006).
7. Ins. by the Punjab Reorganisation Act, 1966 (31 of 1966), s. 7 (w.e.f. 1-11-1966).

<i>Name</i>		<i>Territories</i>		
<sup>1</sup> [*	*	*	*	*)
<sup>1</sup> [*	*	*	*	*)
<sup>2</sup> [8. Jammu and Kashmir	The territories specified in section 4 of the Jammu and Kashmir Reorganisation Act, 2019.			
9. Ladakh	The territories specified in section 3 of the Jammu and Kashmir Reorganisation Act, 2019.]			

1. Entry 8 relating to Mizoram omitted and entry 9 relating to Arunachal Pradesh renumbered as entry 8 by the State of Mizoram Act, 1986 (34 of 1986), s. 4 (w.e.f. 20-2-1987) and entry 8 relating to Arunachal Pradesh omitted by the State of Arunachal Pradesh Act, 1986 (69 of 1986) s. 4 (w.e.f. 15-4-1987).
2. Ins. by the Jammu and Kashmir Reorganisation Act, 2019 (34 of 2019) s. 6 (w.e.f. 31-10-2019).

## [Articles 59(3), 65(3), 75(6), 97, 125, 148(3), 158(3), 164 (5), 186 and 221]

PROVISIONS AS TO THE PRESIDENT AND THE GOVERNORS OF STATES <sup>1\*\*\*</sup>

The President	.....	10,000 rupees*.
The Governor of a State	.....	5,500 rupees**.

3. The President and the Governors of<sup>3</sup>[the States] throughout their respective terms of office shall be entitled to the same privileges to which the Governor-General and the Governors of the corresponding Provinces were respectively entitled immediately before the commencement of this Constitution.

4. While the Vice-President or any other person is discharging the functions of, or is acting as, President, or any person is discharging the functions of the Governor, he shall be entitled to the same emoluments, allowances and privileges as the President or the Governor whose functions he discharges or for whom he acts, as the case may be.

4\*                      \*                      \*                      \*

4. Part B omitted by s. 29 and Sch., *ibid.* (w.e.f. 1-11-1956).

# THE CONSTITUTION OF INDIA

(Second Schedule)

## PART C

PROVISIONS AS TO THE SPEAKER AND THE DEPUTY SPEAKER OF THE HOUSE  
OF THE PEOPLE AND THE CHAIRMAN AND THE DEPUTY CHAIRMAN  
OF THE COUNCIL OF STATES AND THE SPEAKER AND THE  
DEPUTY SPEAKER OF THE LEGISLATIVE ASSEMBLY <sup>1\*\*\*</sup>  
AND THE CHAIRMAN AND THE DEPUTY CHAIRMAN  
OF THE LEGISLATIVE COUNCIL OF <sup>2</sup>[A STATE]

7. There shall be paid to the Speaker of the House of the People and the Chairman of the Council of States such salaries and allowances as were payable to the Speaker of the Constituent Assembly of the Dominion of India immediately before the commencement of this Constitution, and there shall be paid to the Deputy Speaker of the House of the People and to the Deputy Chairman of the Council of States such salaries and allowances as were payable to the Deputy Speaker of the Constituent Assembly of the Dominion of India immediately before such commencement.

8. There shall be paid to the Speaker and the Deputy Speaker of the Legislative Assembly <sup>3\*\*\*</sup> and to the Chairman and the Deputy Chairman of the Legislative Council of <sup>4</sup>[a State] such salaries and allowances as were payable respectively to the Speaker and the Deputy Speaker of the Legislative Assembly and the President and the Deputy President of the Legislative Council of the corresponding Province immediately before the commencement of this Constitution and, where the corresponding Province had no Legislative Council immediately before such commencement, there shall be paid to the Chairman and the Deputy Chairman of the Legislative Council of the State such salaries and allowances as the Governor of the State may determine.

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1. The words and letter "OF A STATE IN PART A OF THE FIRST SCHEDULE" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

2. Subs. by s. 29 and Sch., *ibid.*, for "ANY SUCH STATE." (w.e.f. 1-11-1956).

3. The words and letter "of a State specified in Part A of the First Schedule" omitted by s. 29 and Sch., *ibid.* (w.e.f. 1-11-1956).

4. Subs. by s. 29 and Sch., *ibid.*, for "such State" (w.e.f. 1-11-1956).

**PART D**PROVISIONS AS TO THE JUDGES OF THE SUPREME COURT AND OF THE  
HIGH COURTS <sup>1\*\*\*</sup>

9. [(1) There shall be paid to the Judges of the Supreme Court, in respect of time spent on actual service, salary at the following rates per mensem, that is to say:—

The Chief Justice .. <sup>2</sup>[10,000 rupees.].\*

Any other Judge .. <sup>3</sup>[9,000 rupees.].\*\*

Provided that if a Judge of the Supreme Court at the time of his appointment is in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or any of its predecessor Governments or under the Government of a State or any of its predecessor Governments, his salary in respect of service in the Supreme Court <sup>4</sup>[shall be reduced—

(a) by the amount of that pension; and

(b) if he has, before such appointment, received in lieu of a portion of the pension due to him in respect of such previous service the commuted value thereof, by the amount of that portion of the pension; and

(c) if he has, before such appointment, received a retirement gratuity in respect of such previous service, by the pension equivalent of that gratuity.]

(2) Every Judge of the Supreme Court shall be entitled without payment of rent to the use of an official residence.

(3) Nothing in sub-paragraph (2) of this paragraph shall apply to a Judge who, immediately before the commencement of this Constitution,—

1. The words and letter "IN STATES IN PART A OF THE FIRST SCHEDULE" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 25(a) (w.e.f. 1-11-1956).

2. Subs. by the Constitution (Fifty-fourth Amendment) Act, 1986, s. 4, for "5,000 rupees to 10,000 rupees" (w.e.f. 1-4-1986).

\* Now two lakh eighty thousand rupees, *vide* the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Act, 2018 (10 of 2018), s. 6 (w.e.f. 1-1-2016).

3. Subs. by the Constitution (Fifty-fourth Amendment) Act, 1986, s. 4, for "4,000 rupees" (w.e.f. 1-4-1986).

\*\* Now two lakh fifty thousand rupees, *vide* the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Act, 2018 (10 of 2018), s. 6 (w.e.f. 1-1-2016).

4. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 25(b), for " shall be reduced by the amount of that pension" (w.e.f. 1-11-1956).

(a) was holding office as the Chief Justice of the Federal Court and has become on such commencement the Chief Justice of the Supreme Court under clause (1) of article 374; or

(b) was holding office as any other Judge of the Federal Court and has on such commencement become a Judge (other than the Chief Justice) of the Supreme Court under the said clause,

during the period he holds office as such Chief Justice or other Judge, and every Judge who so becomes the Chief Justice or other Judge of the Supreme Court shall, in respect of time spent on actual service as such Chief Justice or other Judge, as the case may be, be entitled to receive in addition to the salary specified in sub-paragraph (1) of this paragraph as special pay an amount equivalent to the difference between the salary so specified and the salary which he was drawing immediately before such commencement.

(4) Every Judge of the Supreme Court shall receive such reasonable allowances to reimburse him for expenses incurred in travelling on duty within the territory of India and shall be afforded such reasonable facilities in connection with travelling as the President may from time to time prescribe.

(5) The rights in respect of leave of absence (including leave allowances) and pension of the Judges of the Supreme Court shall be governed by the provisions which, immediately before the commencement of this Constitution, were applicable to the Judges of the Federal Court.

10. (1) <sup>1</sup>[There shall be paid to the Judges of High Courts, in respect of time spent on actual service, salary at the following rates per mensem, that is to say,—

The Chief Justice	..	<sup>2</sup> [9,000 rupees]*
Any other Judge	..	<sup>3</sup> [8,000 rupees]:**

1. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 25(c), (i), for sub-paragraph (1) (w.e.f. 1-11-1956).

2. Subs. by the Constitution (Fifty-fourth Amendment) Act, 1986, s. 4, for "4,000 rupees" (w.e.f. 1-4-1986).

\* Now two lakh fifty thousand rupees, *vide* the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Act, 2018 (10 of 2018), s. 2 (w.e.f. 1-1-2016).

3. Subs. by the Constitution (Fifty-fourth Amendment) Act, 1986, s. 4, for "3,500 rupees" (w.e.f. 1-4-1986).

\*\* Now two lakh twenty-five thousand rupees, *vide* the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Act, 2018 (10 of 2018), s. 2 (w.e.f. 1-1-2016).



Provided that if a Judge of a High Court at the time of his appointment is in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or any of its predecessor Governments or under the Government of a State or any of its predecessor Governments, his salary in respect of service in the High Court shall be reduced—

(a) by the amount of that pension; and

(b) if he has, before such appointment, received in lieu of a portion of the pension due to him in respect of such previous service the commuted value thereof, by the amount of that portion of the pension; and

(c) if he has, before such appointment, received a retirement gratuity in respect of such previous service, by the pension equivalent of that gratuity.]

(2) Every person who immediately before the commencement of this Constitution—

(a) was holding office as the Chief Justice of a High Court in any Province and has on such commencement become the Chief Justice of the High Court in the corresponding State under clause (1) of article 376; or

(b) was holding office as any other Judge of a High Court in any Province and has on such commencement become a Judge (other than the Chief Justice) of the High Court in the corresponding State under the said clause,

shall, if he was immediately before such commencement drawing a salary at a rate higher than that specified in sub-paragraph (1) of this paragraph, be entitled to receive in respect of time spent on actual service as such Chief Justice or other Judge, as the case may be, in addition to the salary specified in the said sub-paragraph as special pay an amount equivalent to the difference between the salary so specified and the salary which he was drawing immediately before such commencement.

<sup>1</sup>[(3) Any person who, immediately before the commencement of the Constitution (Seventh Amendment) Act, 1956, was holding office as the Chief Justice of the High Court of a State specified in Part B of the First Schedule and has on such commencement become the Chief Justice of the High Court of a State specified in the said Schedule as amended by the said Act, shall, if he was immediately before such commencement drawing any amount as allowance in addition to his salary, be entitled to receive in respect of time spent on actual service as such Chief Justice, the same amount as allowance in addition to the salary specified in sub-paragraph (1) of this paragraph.].

1. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 25(c), (ii), for sub-paragraphs (3) and (4) (w.e.f. 1-11-1956).

11. In this Part, unless the context otherwise requires,—

(a) the expression “Chief Justice” includes an acting Chief Justice, and a “Judge” includes an *ad hoc* Judge;

(b) “actual service” includes—

(i) time spent by a Judge on duty as a Judge or in the performance of such other functions as he may at the request of the President undertake to discharge;

(ii) vacations, excluding any time during which the Judge is absent on leave; and

(iii) joining time on transfer from a High Court to the Supreme Court or from one High Court to another.

#### PART E

##### PROVISIONS AS TO THE COMPTROLLER AND AUDITOR-GENERAL OF INDIA

12. (1) There shall be paid to the Comptroller and Auditor-General of India a salary at the rate of \*four thousand rupees per mensem.

(2) The person who was holding office immediately before the commencement of this Constitution as Auditor-General of India and has become on such commencement the Comptroller and Auditor-General of India under article 377 shall in addition to the salary specified in sub-paragraph (1) of this paragraph be entitled to receive as special pay an amount equivalent to the difference between the salary so specified and the salary which he was drawing as Auditor-General of India immediately before such commencement.

(3) The rights in respect of leave of absence and pension and the other conditions of service of the Comptroller and Auditor-General of India shall be governed or shall continue to be governed, as the case may be, by the provisions which were applicable to the Auditor-General of India immediately before the commencement of this Constitution and all references in those provisions to the Governor-General shall be construed as references to the President.

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\* The Comptroller and Auditor-General of India shall be paid a salary equal to the salary of the Judges of the Supreme Court *vide* s. 3 of the Comptroller and Auditor-General (Duties, Powers and Conditions of Service) Act, 1971 (56 of 1971). The salary of Judges of the Supreme Court has been raised to two lakh fifty thousand rupees per mensem by the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Act, 2018 (10 of 2018), s. 6 (w.e.f. 1-1-2016).

### THIRD SCHEDULE

[Articles 75(4), 99, 124(6), 148(2), 164(3), 188 and 219]\*

#### Forms of Oaths or Affirmations

##### I

Form of oath of office for a Minister for the Union:—

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

and allegiance to the Constitution of India as by law established, <sup>1</sup>[that I  
will uphold the sovereignty and integrity of India,] that I will faithfully  
and conscientiously discharge my duties as a Minister for the Union and  
that I will do right to all manner of people in accordance with the  
Constitution and the law, without fear or favour, affection or ill-will.”

##### II

Form of oath of secrecy for a Minister for the Union:—

“I, A.B., do swear in the name of God that I will not directly or  
solemnly affirm

indirectly communicate or reveal to any person or persons any matter  
which shall be brought under my consideration or shall become known  
to me as a Minister for the Union except as may be required for the due  
discharge of my duties as such Minister.”

<sup>2</sup>[III

##### A

Form of oath or affirmation to be made by a candidate for election to  
Parliament:—

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\* See also arts. 84 (a) and 173 (a).

1. Ins. by the Constitution (Sixteenth Amendment) Act, 1963, s. 5 (w.e.f. 5-10-1963).

2. Subs. by s. 5, *ibid.*, for Form III. (w.e.f. 5-10-1963).

# THE CONSTITUTION OF INDIA

(Third Schedule)

“I, A.B., having been nominated as a candidate to fill a seat in the Council of States (or the House of the People) do swear in the name of God solemnly affirm

that I will bear true faith and allegiance to the Constitution of India as by law established and that I will uphold the sovereignty and integrity of India.”

## B

Form of oath or affirmation to be made by a member of Parliament:—

“I, A.B., having been elected (or nominated) a member of the Council of States (or the House of the People) do swear in the name of God solemnly affirm

that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India and that I will faithfully discharge the duty upon which I am about to enter.”]

## IV

Form of oath or affirmation to be made by the Judges of the Supreme Court and the Comptroller and Auditor-General of India:—

“I, A.B., having been appointed Chief Justice (or a Judge) of the Supreme Court of India (or Comptroller and Auditor-General of India) do swear in the name of God that I will bear true faith and solemnly affirm

faith and allegiance to the Constitution of India as by law established, <sup>1</sup>[that I will uphold the sovereignty and integrity of India,] that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or ill-will and that I will uphold the Constitution and the laws.”

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1. Ins. by the Constitution (Sixteenth Amendment) Act, 1963, s. 5 (w.e.f. 5-10-1963).

## THE CONSTITUTION OF INDIA

(Third Schedule)

## V

Form of oath of office for a Minister for a State:—

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

and allegiance to the Constitution of India as by law established, <sup>1</sup>[that I will uphold the sovereignty and integrity of India,] that I will faithfully and conscientiously discharge my duties as a Minister for the State of .....and that I will do right to all manner of people in accordance with the Constitution and the law without fear or favour, affection or ill-will.”

## VI

Form of oath of secrecy for a Minister for a State:—

“I, A.B., do swear in the name of God that I will not directly or  
solemnly affirm

indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as a Minister for the State of .....except as may be required for the due discharge of my duties as such Minister.”

<sup>2</sup>[VII

## A

Form of oath or affirmation to be made by a candidate for election to the Legislature of a State:—

“I, A.B., having been nominated as a candidate to fill a seat in the Legislative Assembly (or Legislative Council), do swear in the name of God that I will bear true faith and  
solemnly affirm

allegiance to the Constitution of India as by law established and that I will uphold the sovereignty and integrity of India.”

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1. Ins. by the Constitution (Sixteenth Amendment) Act, 1963, s. 5 (w.e.f. 5-10-1963).

2. Subs. by s. 5, *ibid.*, for Form VII (w.e.f. 5-10-1963).

**B**

Form of oath or affirmation to be made by a member of the Legislature of a State:—

“I, A.B., having been elected (or nominated) a member of the Legislative Assembly (or Legislative Council), do swear in the name of God that  
solemnly affirm

I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India and that I will faithfully discharge the duty upon which I am about to enter.”]

**VIII**

Form of oath or affirmation to be made by the Judges of a High Court:—

“I, A.B., having been appointed Chief Justice (or a Judge) of the High Court at (or of) ..... do swear in the name of God that I will bear  
solemnly affirm

true faith and allegiance to the Constitution of India as by law established, <sup>1</sup>[that I will uphold the sovereignty and integrity of India,] that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or ill-will and that I will uphold the Constitution and the laws.”

---

1. Ins. by the Constitution (Sixteenth Amendment) Act, 1963, s. 5 (w.e.f. 5-10-1963).

# <sup>1</sup>[FOURTH SCHEDULE

[Articles 4(1) and 80(2)]

## Allocation of seats in the Council of States

To each State or Union territory specified in the first column of the following table, there shall be allotted the number of seats specified in the second column thereof opposite to that State or that Union territory, as the case may be:

TABLE

1.	Andhra Pradesh .....	<sup>2</sup> [11]
<sup>3</sup> [2.	Telangana .....	7]
<sup>4</sup> [3.]	Assam .....	7
<sup>4</sup> [4.]	Bihar .....	<sup>5</sup> [16]
<sup>6</sup> [ <sup>4</sup> [5.]	Jharkhand .....	6]
<sup>7</sup> [ <sup>8</sup> [ <sup>4</sup> [6.]	Goa .....	1]]
<sup>9</sup> [ <sup>8</sup> [ <sup>4</sup> [7.]	Gujarat .....	11]]
<sup>10</sup> [ <sup>8</sup> [ <sup>4</sup> [8.]	Haryana .....	5]]
<sup>8</sup> [ <sup>4</sup> [9.]	Kerala .....	9

1. Fourth Schedule Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 3(2), for 'Fourth Schedule' (w.e.f. 1-11-1956).
2. Subs. by the Andhra Pradesh Reorganisation Act, 2014, s. 12, for "18" (w.e.f. 2-6-2014).
3. Ins. by s. 12, *ibid.* (w.e.f. 2-6-2014).
4. Entries 2 to 30 renumbered as entries 3 to 31 respectively by s. 12, *ibid.* (w.e.f. 2-6-2014).
5. Subs. by the Bihar Reorganisation Act, 2000 (30 of 2000), s. 7, for "22" (w.e.f. 15-11-2000).
6. Ins. by s. 7, *ibid.* (w.e.f. 15-11-2000).
7. Entries 4 to 26 renumbered as entries 5 to 27 respectively and entry "4 Goa....1" ins. by the Goa, Daman and Diu Reorganisation Act, 1987 (18 of 1987), s. 6(a) and (b) (w.e.f. 30-5-1987).
8. Entries 4 to 29 renumbered as entries 5 to 30 by the Bihar Reorganisation Act, 2000 (30 of 2000), s. 7 (w.e.f. 15-11-2000).
9. Subs. by the Bombay Reorganisation Act, 1960 (11 of 1960), s. 6, for entry "4" (w.e.f. 1-5-1960).
10. Ins. by the Punjab Reorganisation Act, 1966 (31 of 1966), s. 9 (w.e.f. 1-11-1966).

## (Fourth Schedule)

<sup>1</sup> [ <sup>2</sup> [10.]]	Madhya Pradesh .....	<sup>3</sup> [11]
<sup>4</sup> [ <sup>1</sup> [ <sup>2</sup> [11.]]	Chhattisgarh .....	5]]
<sup>5</sup> [ <sup>1</sup> [ <sup>2</sup> [12.]]	Tamil Nadu .....	<sup>6</sup> [18]]
<sup>7</sup> [ <sup>1</sup> [ <sup>2</sup> [13.]]	Maharashtra .....	19]]
<sup>8</sup> [ <sup>1</sup> [ <sup>2</sup> [14.]]	Karnataka .....	12]]
<sup>1</sup> [ <sup>2</sup> [15.]]	<sup>9</sup> [Odisha] .....	10]
<sup>1</sup> [ <sup>2</sup> [16.]]	Punjab .....	<sup>10</sup> [7]
<sup>1</sup> [ <sup>2</sup> [17.]]	Rajasthan .....	10]
<sup>1</sup> [ <sup>2</sup> [18.]]	Uttar Pradesh .....	<sup>11</sup> [31]
<sup>12</sup> [ <sup>1</sup> [ <sup>2</sup> [19.]]	<sup>13</sup> [Uttarakhand] .....	3]]
<sup>1</sup> [ <sup>2</sup> [20.]]	West Bengal .....	16]
<sup>14</sup> [ <sup>1</sup> [ <sup>2</sup> [**	* * * .....	*]
<sup>15</sup> [ <sup>16</sup> [ <sup>1</sup> [ <sup>2</sup> [21.]]	Nagaland .....	1]]

1. Entries 4 to 29 renumbered as entries 5 to 30 by the Bihar Reorganisation Act, 2000 (30 of 2000), s. 7 (w.e.f. 15-11-2000).
2. Entries 2 to 30 renumbered as entries 3 to 31 respectively by the Andhra Pradesh Reorganisation Act, 2014, s. 12 (w.e.f. 2-6-2014).
3. Subs. by the Madhya Pradesh Reorganisation Act, 2000 (28 of 2000), s. 7, for "16" (w.e.f. 1-11-2000).
4. Ins. by s. 7, *ibid.* (w.e.f. 1-11-2000).
5. Subs. by the Madras State (Alteration of Name) Act, 1968 (53 of 1968), s. 5, for "8. Madras" (renumbered as \*11) (w.e.f. 14-1-1969).
6. Subs. by the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959 (56 of 1959), s. 8, for "17" (w.e.f. 1-4-1960).
7. Ins. by the Bombay Reorganisation Act, 1960 (11 of 1960), s. 6 (w.e.f. 1-5-1960).
8. Subs. by the Mysore State (Alteration of Name) Act, 1973 (31 of 1973), s. 5, for "10. Mysore" (w.e.f. 1-11-1973).
9. Subs. by the Orissa (Alteration of Name) Act, 2011 (15 of 2011), s. 7 for "Orissa" (w.e.f. 1-11-2011).
10. Subs. by the Punjab Reorganisation Act, 1966 (31 of 1966), s. 9 for "11" (w.e.f. 1-11-1966).
11. Subs. by the Uttar Pradesh Reorganisation Act, 2000 (29 of 2000), s. 7 for "34" (w.e.f. 9-11-2000).
12. Ins. by s. 7, *ibid.* (w.e.f. 9-11-2000).
13. Subs. by the Uttaranchal (Alteration of Name) Act, 2006 (52 of 2006), s. 5 for "Uttaranchal" (w.e.f. 1-1-2007).
14. \*\* Entry 21 relating to Jammu and Kashmir deleted by the Jammu and Kashmir Reorganisation Act, 2019 (34 of 2019), s. 8 (w.e.f. 31-10-2019).
15. Entries 22 to 31 re-numbered as entries 21 to 30, respectively by the Jammu and Kashmir Reorganisation Act, 2019 (34 of 2019), s. 8 (w.e.f. 31-10-2019).
16. Ins. by the State of Nagaland Act, 1962 (27 of 1962), s. 6 (w.e.f. 1-12-1963).



## (Fourth Schedule)

<sup>1</sup> [ <sup>3</sup> [ <sup>4</sup> [22.]	Himachal Pradesh .....	3]]]
<sup>3</sup> [ <sup>2</sup> [ <sup>4</sup> [23.]	Manipur .....	1]
<sup>3</sup> [ <sup>2</sup> [ <sup>4</sup> [24.]	Tripura .....	1]]
<sup>3</sup> [ <sup>2</sup> [ <sup>4</sup> [25.]	Meghalaya .....	1]]
<sup>5</sup> [ <sup>3</sup> [ <sup>2</sup> [ <sup>4</sup> [26.]	Sikkim .....	1]]
<sup>6</sup> [ <sup>3</sup> [ <sup>2</sup> [ <sup>4</sup> [27.]	Mizoram .....	1]]
<sup>7</sup> [ <sup>3</sup> [ <sup>2</sup> [ <sup>4</sup> [28.]	Arunachal Pradesh .....	1]]
<sup>3</sup> [ <sup>2</sup> [ <sup>4</sup> [29.]	Delhi .....	3]
<sup>3</sup> [ <sup>2</sup> [ <sup>4</sup> [30.]	<sup>8</sup> [Puducherry] .....	1]]
<sup>9</sup> [ <sup>3</sup> [ <sup>2</sup> [ <sup>4</sup> [31.]	Jammu and Kashmir .....	4]
Total		<sup>10</sup> [233]

1. Ins. by the State of Himachal Pradesh Act, 1970 (53 of 1970), s. 5 (w.e.f. 25-1-1971).
2. Entries 4 to 29 renumbered as entries 5 to 30 by the Bihar Reorganisation Act, 2000 (30 of 2000), s. 7 (w.e.f. 15-11-2000).
3. Entries 2 to 30 renumbered as entries 3 to 31 respectively by the Andhra Pradesh Reorganisation Act, 2014 (6 of 2014), s. 12 (w.e.f. 2-6-2014).
4. Entries 22 to 31 renumbered as entries 21 to 30 respectively by the Jammu and Kashmir Reorganisation Act, 2019 (34 of 2019), s. 8 (w.e.f. 31-10-2019).
5. Ins. by the Constitution (Thirty-sixth Amendment) Act, 1975, s. 4 (w.e.f. 26-4-1975).
6. Ins. by the State of Mizoram Act, 1986 (34 of 1986), s. 5 (w.e.f. 20-2-1987).
7. Ins. by the State of Arunachal Pradesh Act, 1986 (69 of 1986), s. 5 (w.e.f. 20-2-1987).
8. Subs. by the Pondicherry (Alteration of Name) Act, 2006 (44 of 2006) s. 4, for "Pondicherry" (w.e.f. 1-10-2006).
9. Ins. by the Jammu and Kashmir Reorganisation Act, 2019 (34 of 2019), s. 8 (w.e.f. 31-10-2019).
10. Subs. by the Goa, Daman and Diu Reorganisation Act, 1987 (18 of 1987), s. 6, for "232" (w.e.f. 30-5-1987).

## FIFTH SCHEDULE

[Article 244(1)]

### Provisions as to the Administration and Control of Scheduled Areas and Scheduled Tribes

#### PART A

##### GENERAL

1. **Interpretation.**—In this Schedule, unless the context otherwise requires, the expression “State” <sup>1\*\*\*</sup> does not include the <sup>2</sup>[States of Assam <sup>3</sup>[, <sup>4</sup>[Meghalaya, Tripura and Mizoram.]]]

2. **Executive power of a State in Scheduled Areas.**—Subject to the provisions of this Schedule, the executive power of a State extends to the Scheduled Areas therein.

3. **Report by the Governor <sup>5\*\*\*</sup> to the President regarding the administration of Scheduled Areas.**—The Governor <sup>5\*\*\*</sup> of each State having Scheduled Areas therein shall annually, or whenever so required by the President, make a report to the President regarding the administration of the Scheduled Areas in that State 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.

#### PART B

##### ADMINISTRATION AND CONTROL OF SCHEDULED AREAS AND SCHEDULED TRIBES

4. **Tribes Advisory Council.**—(1) There shall be established in each State having Scheduled Areas therein and, if the President so directs, also in any State having Scheduled Tribes but not Scheduled Areas therein, a Tribes Advisory Council consisting of not more than twenty members of whom, as nearly as may be, three-fourths shall be the representatives of the Scheduled Tribes in the Legislative Assembly of the State:

- 
1. The words and letters "means a State specified in Part A or Part B of the First Schedule but" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).
  2. Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71, for "State of Assam" (w.e.f. 21-1-1972).
  3. Subs. by the Constitution (Forty-ninth Amendment) Act, 1984, s. 3, for "and Meghalaya" (w.e.f. 1-4-1985).
  4. Subs. by the State of Mizoram Act, 1986 (34 of 1986), s. 39, for "Meghalaya and Tripura" (w.e.f. 20-2-1987).
  5. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

Provided that if the number of representatives of the Scheduled Tribes in the Legislative Assembly of the State is less than the number of seats in the Tribes Advisory Council to be filled by such representatives, the remaining seats shall be filled by other members of those tribes.

(2) It shall be the duty of the Tribes Advisory Council to advise on such matters pertaining to the welfare and advancement of the Scheduled Tribes in the State as may be referred to them by the Governor <sup>1\*\*\*</sup>.

(3) The Governor <sup>2\*\*\*</sup> may make rules prescribing or regulating, as the case may be,—

(a) the number of members of the Council, the mode of their appointment and the appointment of the Chairman of the Council and of the officers and servants thereof;

(b) the conduct of its meetings and its procedure in general; and

(c) all other incidental matters.

**5. Law applicable to Scheduled Areas.**—(1) Notwithstanding anything in this Constitution, the Governor <sup>1\*\*\*</sup> may by public notification direct that any particular Act of Parliament or of the Legislature of the State shall not apply to a Scheduled Area or any part thereof in the State or shall apply to a Scheduled Area or any part thereof in the State subject to such exceptions and modifications as he may specify in the notification and any direction given under this sub-paragraph may be given so as to have retrospective effect.

(2) The Governor may make regulations for the peace and good government of any area in a State which is for the time being a Scheduled Area.

In particular and without prejudice to the generality of the foregoing power, such regulations may—

(a) prohibit or restrict the transfer of land by or among members of the Scheduled Tribes in such area;

(b) regulate the allotment of land to members of the Scheduled Tribes in such area;

1. The words "or Rajpramukh, as the case may be" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

2. The words "or Rajpramukh" omitted by s. 29 and Sch., *ibid.* (w.e.f. 1-11-1956).

(c) regulate the carrying on of business as money-lender by persons who lend money to members of the Scheduled Tribes in such area.

(3) In making any such regulation as is referred to in sub-paragraph (2) of this paragraph, the Governor <sup>1\*\*\*</sup> may repeal or amend any Act of Parliament or of the Legislature of the State or any existing law which is for the time being applicable to the area in question.

(4) All regulations made under this paragraph shall be submitted forthwith to the President and, until assented to by him, shall have no effect.

(5) No regulation shall be made under this paragraph unless the Governor <sup>1\*\*\*</sup> making the regulation has, in the case where there is a Tribes Advisory Council for the State, consulted such Council.

### PART C

#### SCHEDULED AREAS

**6. Scheduled Areas.**—(1) In this Constitution, the expression “Scheduled Areas” means such areas as the President may by order <sup>\*</sup> declare to be Scheduled Areas.

(2) The President may at any time by order <sup>\*\*</sup>—

(a) direct that the whole or any specified part of a Scheduled Area shall cease to be a Scheduled Area or a part of such an area;

<sup>2</sup>[(aa) increase the area of any Scheduled Area in a State after consultation with the Governor of that State;]

(b) alter, but only by way of rectification of boundaries, any Scheduled Area;

1. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

The words "or Rajpramukh" omitted by s. 29 and sch., *ibid.* (w.e.f. 1-11-1956).

\* See the Scheduled Areas (Part A States) Order, 1950 (C.O. 9), the Scheduled Areas (Part B States) Order, 1950 (C.O.26), the Scheduled Areas (Himachal Pradesh) Order, 1975 (C.O. 102) and the Scheduled Areas (States of Bihar, Gujarat, Madhya Pradesh and Orissa) Order, 1977 (C.O. 109).

\*\* See the Madras Scheduled Areas (Cessor) Order, 1950 (C.O. 30) and the Andhra Scheduled Areas (Cessor) Order, 1955 (C.O. 50).

2. Ins. by the Fifth Schedule to the Constitution (Amendment) Act, 1976 (101 of 1976), s. 2 (w.e.f. 7-9-1976).

(c) on any alteration of the boundaries of a State or on the admission into the Union or the establishment of a new State, declare any territory not previously included in any State to be, or to form part of, a Scheduled Area;

<sup>1</sup>[(d) rescind, in relation to any State or States, any order or orders made under this paragraph, and in consultation with the Governor of the State concerned, make fresh orders redefining the areas which are to be Scheduled Areas;]

and any such order may contain such incidental and consequential provisions as appear to the President to be necessary and proper, but save as aforesaid, the order made under sub-paragraph (1) of this paragraph shall not be varied by any subsequent order.

#### PART D

##### AMENDMENT OF THE SCHEDULE

**7. Amendment of the Schedule.**—(1) Parliament may from time to time by law amend by way of addition, variation or repeal any of the provisions of this Schedule and, when the Schedule is so amended, any reference to this Schedule in this Constitution shall be construed as a reference to such Schedule as so amended.

(2) No such law as is mentioned in sub-paragraph (1) of this paragraph shall be deemed to be an amendment of this Constitution for the purposes of article 368.

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1. Ins. by the Fifth Schedule to the Constitution (Amendment) Act, 1976 (101 of 1976), s. 2 (w.e.f. 7-9-1976).

## SIXTH SCHEDULE

[Articles 244(2) and 275(1)]

### Provisions as to the Administration of Tribal Areas in <sup>1</sup>[the States of Assam, Meghalaya, Tripura and Mizoram]

<sup>2</sup>1. **Autonomous districts and autonomous regions.**—(1) Subject to the provisions of this paragraph, the tribal areas in each item of <sup>3</sup>[<sup>4</sup>[Parts I, II and IIA] and in Part III] of the table appended to paragraph 20 of this Schedule shall be an autonomous district.

(2) If there are different Scheduled Tribes in an autonomous district, the Governor may, by public notification, divide the area or areas inhabited by them into autonomous regions.

(3) The Governor may, by public notification,—

(a) include any area in <sup>3</sup>[any of the Parts] of the said table;

(b) exclude any area from <sup>3</sup>[any of the Parts] of the said table;

(c) create a new autonomous district;

(d) increase the area of any autonomous district;

(e) diminish the area of any autonomous district;

(f) unite two or more autonomous districts or parts thereof so as to form one autonomous district;

<sup>5</sup>[(~~ff~~) alter the name of any autonomous district];

(g) define the boundaries of any autonomous district:

---

1. Subs. by the State of Mizoram Act, 1986 (34 of 1986), s. 39, for certain words (w.e.f. 20-2-1987).

2. Paragraph 1 has been amended in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 2003 (44 of 2003), s. 2, so as to insert the following proviso after sub-paragraph (2), namely :—

"Provided that nothing in this sub-paragraph shall apply to the Bodoland Territorial Areas District" (w.e.f. 7-9-2003).

3. Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71(i) and Eighth Sch., for "Part A" (w.e.f. 21-1-1972).

4. Subs. by the Constitution (Forty-ninth Amendment) Act, 1984, s. 4, for "Part I and II" (w.e.f. 1-4-1985).

5. Ins. by the Assam Reorganisation (Meghalaya) Act, 1969 (55 of 1969), s. 74 and Fourth Sch. (w.e.f. 2-4-1970).

Provided that no order shall be made by the Governor under clauses (c), (d), (e) and (f) of this sub-paragraph except after consideration of the report of a Commission appointed under sub-paragraph (1) of paragraph 14 of this Schedule:

<sup>1</sup>[Provided further that any order made by the Governor under this sub-paragraph may contain such incidental and consequential provisions (including any amendment of paragraph 20 and of any item in any of the Parts of the said Table) as appear to the Governor to be necessary for giving effect to the provisions of the order.]

**<sup>2</sup>2. Constitution of District Councils and Regional Councils.—**

<sup>3</sup>[(1) There shall be a District Council for each autonomous district consisting of not more than thirty members, of whom not more than four persons shall be nominated by the Governor and the rest shall be elected on the basis of adult suffrage.]

1. Ins. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71(i) and Eighth Sch. (w.e.f. 21-1-1972).

2. Paragraph 2 has been amended in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 2003(44 of 2003), s. 2, so as to insert the following proviso after sub-paragraph (1), namely: —

“Provided that the Bodoland Territorial Council shall consist of not more than forty-six members of whom forty shall be elected on the basis of adult suffrage, of whom thirty shall be reserved for the Scheduled Tribes, five for non-tribal communities, five open for all communities and the remaining six shall be nominated by the Governor having same rights and privileges as other members, including voting rights, from amongst the un-represented communities of the Bodoland Territorial Areas District, of which at least two shall be women.”

Paragraph 2 has been amended in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 1995(42 of 1995), s.2, so as to insert the following proviso after sub-paragraph (3), namely :—

“Provided that the District Council constituted for the North Cachar Hills District shall be called as the North Cachar Hills Autonomous Council and the District Council constituted for the Karbi Anglong District shall be called as the Karbi Anglong Autonomous Council.”

Paragraph 2 has been amended in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 2003(44 of 2003), s. 2, so as to insert the following proviso after sub-paragraph (3), namely:—

“Provided further that the District Council constituted for the Bodoland Territorial Areas District shall be called the Bodoland Territorial Council.”

3. Subs. by the Assam Reorganisation (Meghalaya) Act, 1969 (55 of 1969), s. 74 and Fourth Sch., for sub-paragraph (1) (w.e.f. 2-4-1970).

(2) There shall be a separate Regional Council for each area constituted an autonomous region under sub-paragraph (2) of paragraph 1 of this Schedule.

(3) Each District Council and each Regional Council shall be a body corporate by the name respectively of “the District Council of (*name of district*)” and “the Regional Council of (*name of region*)”, shall have perpetual succession and a common seal and shall by the said name sue and be sued.

(4) Subject to the provisions of this Schedule, the administration of an autonomous district shall, in so far as it is not vested under this Schedule in any Regional Council within such district, be vested in the District Council for such district and the administration of an autonomous region shall be vested in the Regional Council for such region.

(5) In an autonomous district with Regional Councils, the District Council shall have only such powers with respect to the areas under the authority of the Regional Council as may be delegated to it by the Regional Council in addition to the powers conferred on it by this Schedule with respect to such areas.

(6) The Governor shall make rules for the first constitution of District Councils and Regional Councils in consultation with the existing tribal Councils or other representative tribal organisations within the autonomous districts or regions concerned, and such rules shall provide for—

(a) the composition of the District Councils and Regional Councils and the allocation of seats therein;

(b) the delimitation of territorial constituencies for the purpose of elections to those Councils;

(c) the qualifications for voting at such elections and the preparation of electoral rolls therefor;

(d) the qualifications for being elected at such elections as members of such Councils;

(e) the term of office of members of <sup>1</sup>[Regional Councils];

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1. Subs. by the Assam Reorganisation (Meghalaya) Act, 1969 (55 of 1969), s. 74 and Fourth Sch., for "such Councils" (w.e.f. 2-4-1970).



(f) any other matter relating to or connected with elections or nominations to such Councils;

(g) the procedure and the conduct of business <sup>1</sup>[(including the power to act notwithstanding any vacancy)] in the District and Regional Councils;

(h) the appointment of officers and staff of the District and Regional Councils.

<sup>1</sup>[(6A) The elected members of the District Council shall hold office for a term of five years from the date appointed for the first meeting of the Council after the general elections to the Council, unless the District Council is sooner dissolved under paragraph 16 and a nominated member shall hold office at the pleasure of the Governor:

Provided that the said period of five years may, while a Proclamation of Emergency is in operation or if circumstances exist which, in the opinion of the Governor, render the holding of elections impracticable, be extended by the Governor for a period not exceeding one year at a time and in any case where a Proclamation of Emergency is in operation not extending beyond a period of six months after the Proclamation has ceased to operate:

Provided further that a member elected to fill a casual vacancy shall hold office only for the remainder of the term of office of the member whom he replaces.]

(7) The District or the Regional Council may after its first constitution make rules <sup>1</sup>[with the approval of the Governor] with regard to the matters specified in sub-paragraph (6) of this paragraph and may also make rules <sup>1</sup>[with like approval] regulating—

(a) the formation of subordinate local Councils or Boards and their procedure and the conduct of their business; and

(b) generally all matters relating to the transaction of business pertaining to the administration of the district or region, as the case may be:

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1. Ins. by the Assam Reorganisation (Meghalaya) Act, 1969 (55 of 1969), s. 74 and Fourth Sch. (w.e.f. 2-4-1970).

Provided that until rules are made by the District or the Regional Council under this sub-paragraph the rules made by the Governor under sub-paragraph (6) of this paragraph shall have effect in respect of elections to, the officers and staff of, and the procedure and the conduct of business in, each such Council.

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**23. Powers of the District Councils and Regional Councils to make laws.**—(1) The Regional Council for an autonomous region in

1. Second proviso omitted by s. 74 and Fourth Sch. of the Assam Reorganisation (Meghalaya) Act, 1969 (55 of 1969) (w.e.f. 2-4-1970).

2. Paragraph 3 has been amended in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 2003 (44 of 2003), s. 2, so as to substitute sub-paragraph (3) as under (w.e.f. 7-9-2003),—

“(3) Save as otherwise provided in sub-paragraph (2) of paragraph 3A or sub-paragraph (2) of paragraph 3B, all laws made under this paragraph or sub-paragraph (1) of paragraph 3A or sub-paragraph (1) of paragraph 3B shall be submitted forthwith to the Governor and, until assented to by him, shall have no effect.”.

After paragraph 3, the following paragraph has been inserted in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 1995 (42 of 1995), s. 2, (w.e.f. 12-9-1995), namely: —

“3A. **Additional powers of the North Cachar Hills Autonomous Council and the Karbi Anglong Autonomous Council to make laws.**—(1) Without prejudice to the provisions of paragraph 3, the North Cachar Hills Autonomous Council and the Karbi Anglong Autonomous Council within their respective districts, shall have power to make laws with respect to—

- (a) industries, subject to the provisions of entries 7 and 52 of List I of the Seventh Schedule;
- (b) communications, that is to say, roads, bridges, ferries and other means of communication not specified in List I of the Seventh Schedule; municipal tramways, ropeways, inland waterways and traffic thereon subject to the provisions of List I and List III of the Seventh Schedule with regard to such waterways; vehicles other than mechanically propelled vehicles;
- (c) preservation, protection and improvement of stock and prevention of animal diseases; veterinary training and practice; cattle pounds;
- (d) primary and secondary education;
- (e) agriculture, including agricultural education and research, protection against pests and prevention of plant diseases;
- (f) fisheries;

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(Foot-note Continue).—

- (g) water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage and water power subject to the provisions of entry 56 of List I of the Seventh Schedule;
- (h) social security and social insurance; employment and unemployment;
- (i) flood control schemes for protection of villages, paddy fields, markets, towns, etc. (not of technical nature);
- (j) theatre and dramatic performances, cinemas subject to the provisions of entry 60 of List I of the Seventh Schedule; sports, entertainments and amusements;
- (k) public health and sanitation, hospitals and dispensaries;
- (l) minor irrigation;
- (m) trade and commerce in, and the production supply and distribution of, food stuffs, cattle fodder, raw cotton and raw jute;
- (n) libraries, museums and other similar institutions controlled or financed by the State; ancient and historical monuments and records other than those declared by or under any law made by Parliament to be of national importance; and
- (o) alienation of land.

(2) All laws made by the North Cachar Hills Autonomous Council and the Karbi Anglong Autonomous Council under paragraph 3 or under this paragraph shall, in so far as they relate to matters specified in List III of the Seventh Schedule, be submitted forthwith to the Governor who shall reserve the same for the consideration of the President.

(3) When a law is reserved for the consideration of the President, the President shall declare either that he assents to the said law or that he withholds assent therefrom:

Provided that the President may direct the Governor to return the law to the North Cachar Hills Autonomous Council or the Karbi Anglong Autonomous Council, as the case may be, together with a message requesting that the said Council will reconsider the law 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 the law is so returned, the said Council shall consider the law accordingly within a period of six months from the date of receipt of such message and, if the law is again passed by the said Council with or without amendment it shall be presented again to the President for his consideration."

After paragraph 3A, the following paragraph has been inserted in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 2003 (44 of 2003), s. 2, (w.e.f. 7-9-2003), namely:—

**3B. Additional powers of the Bodoland Territorial Council to make laws.**—(1) Without prejudice to the provisions of paragraph 3, the Bodoland Territorial Council within its areas shall have power to make laws with respect to :—

- (i) agriculture, including agricultural education and research, protection against pests and prevention of plant diseases; (ii) animal husbandry and veterinary, that is to say, preservation, protection and improvement of stock and prevention of animal diseases, veterinary training and practice, cattle pounds; (iii) co-operation; (iv) cultural affairs; (v) education, that is to say, primary education, higher secondary including vocational training, adult education, college education (general); (vi) fisheries; (vii) flood control for protection of village, paddy fields, markets and towns (not of technical nature); (viii) Food and civil

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supply; (ix) forests (other than reserved forests); (x) handloom and textile; (xi) health and family welfare, (xii) intoxicating liquors, opium and derivatives, subject to the provisions of entry 84 of List I of the Seventh Schedule; (xiii) irrigation; (xiv) labour and employment; (xv) land and revenue; (xvi) library services (financed and controlled by the State Government); (xvii) lotteries (subject to the provisions of entry 40 of List I of the Seventh Schedule), theatres, dramatic performances and cinemas (subject to the provisions of entry 60 of List I of the Seventh Schedule); (xviii) markets and fairs; (xix) municipal corporation, improvement trust, district boards and other local authorities; (xx) museum and archaeology institutions controlled or financed by the State, ancient and historical monuments and records other than those declared by or under any law made by Parliament to be of national importance; (xxi) panchayat and rural development; (xxii) planning and development; (xxiii) printing and stationery; (xxiv) public health engineering; (xxv) public works department; (xxvi) publicity and public relations; (xxvii) registration of births and deaths; (xxviii) relief and rehabilitation; (xxix) sericulture; (xxx) small, cottage and rural industry subject to the provisions of entries 7 and 52 of List I of the Seventh Schedule; (xxxi) social Welfare; (xxxii) soil conservation; (xxxiii) sports and youth welfare; (xxxiv) statistics; (xxxv) tourism; (xxxvi) transport (roads, bridges, ferries and other means of communications not specified in List I of the Seventh Schedule, municipal tramways, ropeways, inland waterways and traffic thereon subject to the provision of List I and List III of the Seventh Schedule with regard to such waterways, vehicles other than mechanically propelled vehicles); (xxxvii) tribal research institute controlled and financed by the State Government; (xxxviii) urban development—town and country planning; (xxxix) weights and measures subject to the provisions of entry 50 of List I of the Seventh Schedule; and (xl) Welfare of plain tribes and backward classes:

Provided that nothing in such laws shall—

(a) extinguish or modify the existing rights and privileges of any citizen in respect of his land at the date of commencement of this Act; and

(b) disallow and citizen from acquiring land either by way of inheritance, allotment, settlement or by any other way of transfer if such citizen is otherwise eligible for such acquisition of land within the Bodoland Territorial Areas District.

(2) All laws made under paragraph 3 or under this paragraph shall in so far as they relate to matters specified in List III of the Seventh Schedule, be submitted forthwith to the Governor who shall reserve the same for the consideration of the President.

(3) When a law is reserved for the consideration of the President, the President shall declare either that he assents to the said law or that he withholds assent therefrom:

Provided that the President may direct the Governor to return the law to the Bodoland Territorial Council, together with the message requesting that the said Council will reconsider the law 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 the law is so returned, the said Council shall consider the law accordingly within a period of six months from the date of receipt of such message and, if the law is again passed by the said Council with or without amendments it shall be presented again to the President for his consideration.”.

respect of all areas within such region and the District Council for an autonomous district in respect of all areas within the district except those which are under the authority of Regional Councils, if any, within the district shall have power to make laws with respect to—

(a) the allotment, occupation or use, or the setting apart, of land, other than any land which is a reserved forest for the purposes of agriculture or grazing or for residential or other non-agricultural purposes or for any other purpose likely to promote the interests of the inhabitants of any village or town:

Provided that nothing in such laws shall prevent the compulsory acquisition of any land, whether occupied or unoccupied, for public purposes <sup>1</sup>[by the Government of the State concerned] in accordance with the law for the time being in force authorising such acquisition;

(b) the management of any forest not being a reserved forest;

(c) the use of any canal or water-course for the purpose of agriculture;

(d) the regulation of the practice of *jhum* or other forms of shifting cultivation;

(e) the establishment of village or town committees or councils and their powers;

(f) any other matter relating to village or town administration, including village or town police and public health and sanitation;

(g) the appointment or succession of Chiefs or Headmen;

(h) the inheritance of property;

<sup>2</sup>[(i) marriage and divorce;]

(j) social customs.

(2) In this paragraph, a “reserved forest” means any area which is a reserved forest under the Assam Forest Regulation, 1891, or under any other law for the time being in force in the area in question.

1. Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71(i) and Eighth Sch., for certain words (w.e.f. 21-1-1972).

2. Subs. by the Assam Reorganisation (Meghalaya) Act, 1969 (55 of 1969), s. 74 and Fourth Sch., for cl. (i) (w.e.f. 2-4-1970).

(3) All laws made under this paragraph shall be submitted forthwith to the Governor and, until assented to by him, shall have no effect.

**14. Administration of justice in autonomous districts and autonomous regions.**—(1) The Regional Council for an autonomous region in respect of areas within such region and the District Council for an autonomous district in respect of areas within the district other than those which are under the authority of the Regional Councils, if any, within the district may constitute village councils or courts for the trial of suits and cases between the parties all of whom belong to Scheduled Tribes within such areas, other than suits and cases to which the provisions of sub-paragraph (1) of paragraph 5 of this Schedule apply, to the exclusion of any court in the State, and may appoint suitable persons to be members of such village councils or presiding officers of such courts, and may also appoint such officers as may be necessary for the administration of the laws made under paragraph 3 of this Schedule.

(2) Notwithstanding anything in this Constitution, the Regional Council for an autonomous region or any court constituted in that behalf by the Regional Council or, if in respect of any area within an autonomous district there is no Regional Council, the District Council for such district, or any court constituted in that behalf by the District Council, shall exercise the powers of a court of appeal in respect of all suits and cases triable by a village council or court constituted under sub-paragraph (1) of this paragraph within such region or area, as the case may be, other than those to which the provisions of sub-paragraph (1) of paragraph 5 of this Schedule apply, and no other court except the High Court and the Supreme Court shall have jurisdiction over such suits or cases.

(3) The High Court <sup>2\*\*\*</sup> shall have and exercise such jurisdiction over the suits and cases to which the provisions of sub-paragraph (2) of this paragraph apply as the Governor may from time to time by order specify.

1. Paragraph 4 has been amended in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 2003 (44 of 2003), s. 2, (w.e.f. 7-9-2003) so as to insert the following sub-paragraph after sub-paragraph (5), namely:—

“(6) Nothing in this paragraph shall apply to the Bodoland Territorial Council constituted under the proviso to sub-paragraph (3) of paragraph 2 of this Schedule.”.

2. The words "of Assam" omitted by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71(i) and Eighth Sch. (w.e.f. 21-1-1972).

(4) A Regional Council or District Council, as the case may be, may with the previous approval of the Governor make rules regulating —

(a) the constitution of village councils and courts and the powers to be exercised by them under this paragraph;

(b) the procedure to be followed by village councils or courts in the trial of suits and cases under sub-paragraph (1) of this paragraph;

(c) the procedure to be followed by the Regional or District Council or any court constituted by such Council in appeals and other proceedings under sub-paragraph (2) of this paragraph;

(d) the enforcement of decisions and orders of such councils and courts;

(e) all other ancillary matters for the carrying out of the provisions of sub-paragraphs (1) and (2) of this paragraph.

<sup>1</sup>[(5) On and from such date as the President may, <sup>2</sup>[after consulting the Government of the State concerned], by notification appoint in this behalf, this paragraph shall have effect in relation to such autonomous district or region as may be specified in the notification, as if—

(i) in sub-paragraph (1), for the words “between the parties all of whom belong to Scheduled Tribes within such areas, other than suits and cases to which the provisions of sub-paragraph (1) of paragraph 5 of this Schedule apply,” the words “not being suits and cases of the nature referred to in sub-paragraph (1) of paragraph (5) of this Schedule, which the Governor may specify in this behalf,” had been substituted;

(ii) sub-paragraphs (2) and (3) had been omitted;

(iii) in sub-paragraph (4)—

(a) for the words “A Regional Council or District Council, as the case may be, may with the previous approval of the Governor make rules regulating”, the words “the Governor may make rules regulating” had been substituted; and

(b) for clause (a), the following clause had been substituted, namely:—

1. Ins. by the Assam Reorganisation (Meghalaya) Act, 1969 (55 of 1969), s. 74 and Fourth Sch. (w.e.f. 2-4-1970).

2. Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71(i) and Eighth Sch., for certain words (w.e.f. 21-1-1972).

“(a) the constitution of village councils and courts, the powers to be exercised by them under this paragraph and the courts to which appeals from the decisions of village councils and courts shall lie;”;

(c) for clause (c), the following clause had been substituted, namely:—

“(c) the transfer of appeals and other proceedings pending before the Regional or District Council or any court constituted by such Council immediately before the date appointed by the President under sub-paragraph (5);”;

(d) in clause (e), for the words, brackets and figures “sub-paragraphs (1) and (2)”, the word, brackets and figure “sub-paragraph (1)” had been substituted.]

**5. Conferment of powers under the Code of Civil Procedure, 1908, and the Code of Criminal Procedure, 1898<sup>1</sup>, on the Regional and District Councils and on certain courts and officers for the trial of certain suits, cases and offences.**—(1) The Governor may, for the trial of suits or cases arising out of any law in force in any autonomous district or region being a law specified in that behalf by the Governor, or for the trial of offences punishable with death, transportation for life, or imprisonment for a term of not less than five years under the Indian Penal Code or under any other law for the time being applicable to such district or region, confer on the District Council or the Regional Council having authority over such district or region or on courts constituted by such District Council or on any officer appointed in that behalf by the Governor, such powers under the Code of Civil Procedure, 1908, or, as the case may be, the Code of Criminal Procedure, 1898<sup>1</sup>, as he deems appropriate, and thereupon the said Council, court or officer shall try the suits, cases or offences in exercise of the powers so conferred.

(2) The Governor may withdraw or modify any of the powers conferred on a District Council, Regional Council, court or officer under sub-paragraph (1) of this paragraph.

(3) Save as expressly provided in this paragraph, the Code of Civil Procedure, 1908, and the Code of Criminal Procedure, 1898<sup>1</sup>, shall not apply to the trial of any suits, cases or offences in an autonomous district or in any autonomous region to which the provisions of this paragraph apply.

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1. See the Code of Criminal Procedure, 1973 ( 2 of 1974).



<sup>1</sup>[(4) On and from the date appointed by the President under sub-paragraph (5) of paragraph 4 in relation to any autonomous district or autonomous region, nothing contained in this paragraph shall, in its application to that district or region, be deemed to authorise the Governor to confer on the District Council or Regional Council or on courts constituted by the District Council any of the powers referred to in sub-paragraph (1) of this paragraph.]

<sup>2</sup>[6. **Powers of the District Council to establish primary schools, etc.**— (1) The District Council for an autonomous district may establish, construct, or manage primary schools, dispensaries, markets, <sup>3</sup>[cattle pounds], ferries, fisheries, roads, road transport and waterways in the district and may, with the previous approval of the Governor, make regulations for the regulation and control thereof and, in particular, may prescribe the language and the manner in which primary education shall be imparted in the primary schools in the district.

(2) The Governor may, with the consent of any District Council, entrust either conditionally or unconditionally to that Council or to its officers functions in relation to agriculture, animal husbandry, community projects, co-operative societies, social welfare, village planning or any other matter to which the executive power of the State <sup>4</sup>\*\*\*\* extends.

**7. District and Regional Funds.**—(1) There shall be constituted for each autonomous district, a District Fund and for each autonomous region, a Regional Fund to which shall be credited all moneys received respectively by the District Council for that district and the Regional Council for that region in the course of the administration of such district or region, as the case may be, in accordance with the provisions of this Constitution.

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1. Ins. by the Assam Reorganisation (Meghalaya) Act, 1969 (55 of 1969), s. 74 and Fourth Sch. (w.e.f. 2-4-1970).

2. Subs. by s. 74 and Fourth Sch., *ibid.* for "paragraph 6" (w.e.f. 2-4-1970).

3. Subs. by the Repealing and Amending Act, 1974 (56 of 1974), s. 4, for "cattle ponds" (w.e.f. 20-12-1974).

4. The words "of Assam or Meghalaya, as the case may be," omitted by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71(i) and Eighth Sch. (w.e.f. 21-1-1972).

<sup>1</sup>[(2) The Governor may make rules for the management of the District Fund, or, as the case may be, the Regional Fund and for the procedure to be followed in respect of payment of money into the said Fund, the withdrawal of moneys therefrom, the custody of moneys therein and any other matter connected with or ancillary to the matters aforesaid.

(3) The accounts of the District Council or, as the case may be, the Regional Council shall be kept in such form as the Comptroller and Auditor-General of India may, with the approval of the President, prescribe.

(4) The Comptroller and Auditor-General shall cause the accounts of the District and Regional Councils to be audited in such manner as he may think fit, and the reports of the Comptroller and Auditor-General relating to such accounts shall be submitted to the Governor who shall cause them to be laid before the Council.]

**8. Powers to assess and collect land revenue and to impose taxes.**—(1) The Regional Council for an autonomous region in respect of all lands within such region and the District Council for an autonomous district in respect of all lands within the district except those which are in the areas under the authority of Regional Councils, if any, within the district, shall have the power to assess and collect revenue in respect of such lands in accordance with the principles for the time being followed <sup>2</sup>[by the Government of the State in assessing lands for the purpose of land revenue in the State generally.]

(2) The Regional Council for an autonomous region in respect of areas within such region and the District Council for an autonomous district in respect of all areas in the district except those which are under the authority of Regional Councils, if any, within the district, shall have power to levy and collect taxes on lands and buildings, and tolls on persons resident within such areas.

(3) The District Council for an autonomous district shall have the power to levy and collect all or any of the following taxes within such district, that is to say —

- (a) taxes on professions, trades, callings and employments;
- (b) taxes on animals, vehicles and boats;

1. Subs. by the Assam Reorganisation (Meghalaya) Act, 1969 (55 of 1969), s. 74 and Fourth Sch., for sub-paragraph (2) (w.e.f. 2-4-1970).

2. Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71(i) and Eighth Sch., for certain words (w.e.f. 21-1-1972).

(c) taxes on the entry of goods into a market for sale therein, and tolls on passengers and goods carried in ferries; <sup>1\*\*\*</sup>

(d) taxes for the maintenance of schools, dispensaries or roads; <sup>2</sup>[and]

<sup>3</sup>[(e) taxes on entertainment and amusements.]

(4) A Regional Council or District Council, as the case may be, may make regulations to provide for the levy and collection of any of the taxes specified in sub-paragraphs (2) and (3) of this paragraph <sup>4</sup>[and every such regulation shall be submitted forthwith to the Governor and, until assented to by him, shall have no effect].

<sup>5</sup>9. **Licences or leases for the purpose of prospecting for, or extraction of, minerals.**—(1) Such share of the royalties accruing each year from licences or leases for the purpose of prospecting for, or the extraction of, minerals granted by <sup>6</sup>[the Government of the State] in respect of any area within an autonomous district as may be agreed upon between <sup>6</sup>[the Government of the State] and the District Council of such district shall be made over to that District Council.

(2) If any dispute arises as to the share of such royalties to be made over to a District Council, it shall be referred to the Governor for determination and the amount determined by the Governor in his discretion shall be deemed to be the amount payable under sub-paragraph (1) of this paragraph to the District Council and the decision of the Governor shall be final.

1. The word "and" omitted by the Constitution (One Hundred and First Amendment) Act, 2016, s. 16(i) (w.e.f. 16-9-2016).

2. Ins. by s. 16(ii), *ibid.* (w.e.f. 16-9-2016).

3. Ins. by s. 16(iii), *ibid.* (w.e.f. 16-9-2016).

4. Ins. by the Assam Reorganisation (Meghalaya) Act, 1969 (55 of 1969), s. 74 and Fourth Sch. (w.e.f. 2-4-1970).

5. Paragraph 9 has been amended in its application to the States of Tripura and Mizoram by the Sixth Schedule to the Constitution (Amendment) Act, 1988 (67 of 1988), s. 2 (w.e.f. 16-12-1988), so as to insert the following sub-paragraph after sub-paragraph (2), namely:—

“(3) The Governor may, by order, direct that the share of royalties to be made over to a District Council under this paragraph shall be made over to that Council within a period of one year from the date of any agreement under sub-paragraph (1) or, as the case may be, of any determination under sub-paragraph (2).”.

6. Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71(i) and Eighth Sch., for "the Government of Assam" (w.e.f. 21-1-1972).

**<sup>1</sup>10. Power of District Council to make regulations for the control of money-lending and trading by non-tribals.**—(1) The District Council of an autonomous district may make regulations for the regulation and control of money-lending or trading within the district by persons other than Scheduled Tribes resident in the district.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may—

(a) prescribe that no one except the holder of a licence issued in that behalf shall carry on the business of money-lending;

(b) prescribe the maximum rate of interest which may be charged or be recovered by a money-lender;

(c) provide for the maintenance of accounts by money-lenders and for the inspection of such accounts by officers appointed in that behalf by the District Council;

(d) prescribe that no person who is not a member of the Scheduled Tribes resident in the district shall carry on wholesale or retail business in any commodity except under a licence issued in that behalf by the District Council:

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1. Paragraph 10 has been amended in its application to the States of Tripura and Mizoram by the Sixth Schedule to the Constitution (Amendment) Act, 1988 (67 of 1988) (w.e.f. 16-12-1988) s.2, as under—

(a) in the heading, the words “by non-tribals” shall be omitted;

(b) in sub-paragraph (1), the words “other than Scheduled Tribes” shall be omitted;

(c) in sub-paragraph (2), for clause (d), the following clause shall be substituted, namely:—

“(d) prescribe that no person resident in the district shall carry on any trade, whether wholesale or retail, except under a licence issued in that behalf by the District Council.”.

Provided that no regulations may be made under this paragraph unless they are passed by a majority of not less than three-fourths of the total membership of the District Council:

Provided further that it shall not be competent under any such regulations to refuse the grant of a licence to a money-lender or a trader who has been carrying on business within the district since before the time of the making of such regulations.

(3) All regulations made under this paragraph shall be submitted forthwith to the Governor and, until assented to by him, shall have no effect.

\* \* \* \* \*

**11. Publication of laws, rules and regulations made under the Schedule.**—All laws, rules and regulations made under this Schedule by a District Council or a Regional Council shall be published forthwith in the Official Gazette of the State and shall on such publication have the force of law.

**\*\*\*\* 12. <sup>1</sup>[Application of Acts of Parliament and of the Legislature of the State of Assam to autonomous districts and autonomous regions in the State of Assam].**— (1) Notwithstanding anything in this Constitution,—

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\* Paragraph 10 has been amended in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 2003 (44 of 2003), s. 2 (w.e.f. 7-9-2003), so as to insert the following sub-paragraph after sub-paragraph (3), namely:—

"(4) Nothing in this paragraph shall apply to the Bodoland Territorial Council constituted under the proviso to sub-paragraph (3) of paragraph 2 of this Schedule."

\*\* Paragraph 12 has been amended to its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 1995 (42 of 1995), s. 2 (w.e.f. 12-9-1995) as under,—

'in paragraph 12, in sub-paragraph (1), for the words and figure "matters specified in paragraph 3 of this Schedule", the words, figures and letter "matters specified in paragraph 3 or paragraph 3A of this Schedule" shall be substituted.'

\*\*\* Paragraph 12 has been amended in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 2003 (44 of 2003), s. 2 (w.e.f. 7-9-2003), as under,—

'in paragraph 12, in sub-paragraph (1), in clause (a), for the words, figures and letter "matters specified in paragraph 3 or paragraph 3A of this Schedule", the words, figures and letters "matters specified in paragraph 3 or paragraph 3A or paragraph 3B of this Schedule" shall be substituted.'

1. Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71(i) and Eighth Sch., for the heading (w.e.f. 21-1-1972).

(a) no Act of the <sup>1</sup>[Legislature of the State of Assam] in respect of any of the matters specified in paragraph 3 of this Schedule as matters with respect to which a District Council or a Regional Council may make laws, and no Act of the Legislature of the State of Assam prohibiting or restricting the consumption of any non-distilled alcoholic liquor shall apply to any autonomous district or autonomous region <sup>2</sup>[in that State] unless in either case the District Council for such district or having jurisdiction over such region by public notification so directs, and the District Council in giving such direction with respect to any Act may direct that the Act shall in its application to such district or region or any part thereof have effect subject to such exceptions or modifications as it thinks fit;

(b) the Governor may, by public notification, direct that any Act of Parliament or of the <sup>1</sup>[Legislature of the State of Assam] to which the provisions of clause (a) of this sub-paragraph do not apply shall not apply to an autonomous district or an autonomous region <sup>2</sup>[in that State], or shall apply to such district or region or any part thereof subject to such exceptions or modifications as he may specify in the notification.

(2) Any direction given under sub-paragraph (1) of this paragraph may be given so as to have retrospective effect.

<sup>3</sup>[12A. **Application of Acts of Parliament and of the Legislature of the State of Meghalaya to autonomous districts and autonomous regions in the State of Meghalaya.**—Notwithstanding anything in this Constitution,—

1. Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71(i) and Eighth Sch., for "Legislature of the State" (w.e.f. 21-1-1972).

2. Ins. by s. 71(i) and Eighth Sch., *ibid.* (w.e.f. 21-1-1972).

3. Subs. by s. 71(i) and Eighth Sch., *ibid.*, for paragraph 12A (w.e.f. 21-1-1972).

(a) if any provision of a law made by a District or Regional Council in the State of Meghalaya with respect to any matter specified in sub-paragraph (1) of paragraph 3 of this Schedule or if any provision of any regulation made by a District Council or a Regional Council in that State under paragraph 8 or paragraph 10 of this Schedule, is repugnant to any provision of a law made by the Legislature of the State of Meghalaya with respect to that matter, then, the law or regulation made by the District Council or, as the case may be, the Regional Council whether made before or after the law made by the Legislature of the State of Meghalaya, shall, to the extent of repugnancy, be void and the law made by the Legislature of the State of Meghalaya shall prevail;

(b) the President may, with respect to any Act of Parliament, by notification, direct that it shall not apply to an autonomous district or an autonomous region in the State of Meghalaya, or shall apply to such district or region or any part thereof subject to such exceptions or modifications as he may specify in the notification and any such direction may be given so as to have retrospective effect.]

<sup>1</sup>[12AA. **Application of Acts of Parliament and of the Legislature of the State of Tripura to the autonomous districts and autonomous regions in the State of Tripura.**—Notwithstanding anything in this Constitution,—

(a) no Act of the Legislature of the State of Tripura in respect of any of the matters specified in paragraph 3 of this Schedule as matters with respect to which a District Council or a Regional Council may make laws, and no Act of the Legislature of the State of Tripura prohibiting or restricting the consumption of any non-distilled alcoholic liquor shall apply to the autonomous district or an autonomous region in that State unless, in either case, the District Council for that district or having jurisdiction over such region by public notification so directs, and the District Council in giving such direction with respect to any Act may direct that the Act shall, in its application to that district or such region or any part thereof have effect subject to such exceptions or modifications as it thinks fit;

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1. Paragraph 12AA ins. by the Constitution (Forty-ninth Amendment) Act, 1984, s. 4 (w.e.f. 1-4-1985) and subsequently subs. by the Sixth Schedule to the Constitution (Amendment) Act, 1988 (67 of 1988), s. 2 (w.e.f. 16-12-1988).

(b) the Governor may, by public notification, direct that any Act of the Legislature of the State of Tripura to which the provisions of clause (a) of this sub-paragraph do not apply, shall not apply to the autonomous district or an autonomous region in that State, or shall apply to that district or such region, or any part thereof, subject to such exceptions or modifications, as he may specify in the notification;

(c) the President may, with respect to any Act of Parliament, by notification, direct that it shall not apply to the autonomous district or an autonomous region in the State of Tripura, or shall apply to such district or region or any part thereof, subject to such exceptions or modifications as he may specify in the notification and any such direction may be given so as to have retrospective effect.

**12B. Application of Acts of Parliament and of the Legislature of the State of Mizoram to autonomous districts and autonomous regions in the State of Mizoram.**—Notwithstanding anything in this Constitution,—

(a) no Act of the Legislature of the State of Mizoram in respect of any of the matters specified in paragraph 3 of this Schedule as matters with respect to which a District Council or a Regional Council may make laws, and no Act of the Legislature of the State of Mizoram prohibiting or restricting the consumption of any non-distilled alcoholic liquor shall apply to any autonomous district or autonomous region in that State unless, in either case, the District Council for such district or having jurisdiction over such region, by public notification, so directs, and the District Council, in giving such direction with respect to any Act, may direct that the Act shall, in its application to such district or region or any part thereof, have effect subject to such exceptions or modifications as it thinks fit;

(b) the Governor may, by public notification, direct that any Act of the Legislature of the State of Mizoram to which the provisions of clause (a) of this sub-paragraph do not apply, shall not apply to an autonomous district or an autonomous region in that State, or shall apply to such district or region, or any part thereof, subject to such exceptions or modifications, as he may specify in the notification;



(c) the President may, with respect to any Act of Parliament, by notification, direct that it shall not apply to an autonomous district or an autonomous region in the State of Mizoram, or shall apply to such district or region or any part thereof, subject to such exceptions or modifications as he may specify in the notification and any such direction may be given so as to have retrospective effect.]]

**13. Estimated receipts and expenditure pertaining to autonomous districts to be shown separately in the annual financial statement.**—The estimated receipts and expenditure pertaining to an autonomous district which are to be credited to, or is to be made from, the Consolidated Fund of the State <sup>1\*\*\*</sup> shall be first placed before the District Council for discussion and then after such discussion be shown separately in the annual financial statement of the State to be laid before the Legislature of the State under article 202.

<sup>2</sup>**14. Appointment of Commission to inquire into and report on the administration of autonomous districts and autonomous regions.**—

(1) The Governor may at any time appoint a Commission to examine and report on any matter specified by him relating to the administration of the autonomous districts and autonomous regions in the State, including matters specified in clauses (c), (d), (e) and (f) of sub-paragraph (3) of paragraph 1 of this Schedule, or may appoint a Commission to inquire into and report from time to time on the administration of autonomous districts and autonomous regions in the State generally and in particular on—

(a) the provision of educational and medical facilities and communications in such districts and regions;

(b) the need for any new or special legislation in respect of such districts and regions; and

(c) the administration of the laws, rules and regulations made by the District and Regional Councils;

and define the procedure to be followed by such Commission.

1. The words "of Assam" omitted by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71(i) and Eighth Sch. (w.e.f. 21-1-1972).

2. Paragraph 14 has been amended in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 1995 (42 of 1995), s. 2 (w.e.f. 12-9-1995) as under:—

‘in paragraph 14, in sub-paragraph (2), the words “with the recommendations of the Governor with respect thereto” shall be omitted.’.

(2) The report of every such Commission with the recommendations of the Governor with respect thereto shall be laid before the Legislature of the State by the Minister concerned together with an explanatory memorandum regarding the action proposed to be taken thereon by <sup>1</sup>[the Government of the State.]

(3) In allocating the business of the Government of the State among his Ministers the Governor may place one of his Ministers specially in charge of the welfare of the autonomous districts and autonomous regions in the State.

**<sup>2</sup>15. Annulment or suspension of acts and resolutions of District and Regional Councils.**—(1) If at any time the Governor is satisfied that an act or resolution of a District or a Regional Council is likely to endanger the safety of India <sup>3</sup>[or is likely to be prejudicial to public order], he may annul or suspend such act or resolution and take such steps as he may consider necessary (including the suspension of the Council and the assumption to himself of all or any of the powers vested in or exercisable by the Council) to prevent the commission or continuance of such act, or the giving of effect to such resolution.

(2) Any order made by the Governor under sub-paragraph (1) of this paragraph together with the reasons therefor shall be laid before the Legislature of the State as soon as possible and the order shall, unless revoked by the Legislature of the State, continue in force for a period of twelve months from the date on which it was so made:

Provided that if and so often as a resolution approving the continuance in force of such order is passed by the Legislature of the State, the order shall unless cancelled by the Governor continue in force for a further period of twelve months from the date on which under this paragraph it would otherwise have ceased to operate.

1. Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71(i) and Eighth Sch., for "the Government of Assam" (w.e.f. 21-1-1972).

2. Paragraph 15 has been amended in its application to the States of Tripura and Mizoram by the Sixth Schedule to the Constitution (Amendment) Act, 1988 (67 of 1988), s. 2 (w.e.f. 16-12-1988), as under,—

In Paragraph 15, in sub-paragraph (2), —

‘(a) in the opening paragraph, for the words “by the Legislature of the State”, the words “by him” shall be substituted;

(b) the proviso shall be omitted.’.

3. Ins. by the Assam Reorganisation (Meghalaya) Act, 1969 (55 of 1969), s. 74 and Fourth Sch. (w.e.f. 2-4-1970).

<sup>1</sup>16. **Dissolution of a District or a Regional Council.**— <sup>2</sup>[(1)] The Governor may on the recommendation of a Commission appointed under paragraph 14 of this Schedule by public notification order the dissolution of a District or a Regional Council, and—

(a) direct that a fresh general election shall be held immediately for the reconstitution of the Council; or

(b) subject to the previous approval of the Legislature of the State assume the administration of the area under the authority of such Council himself or place the administration of such area under the Commission appointed under the said paragraph or any other body considered suitable by him for a period not exceeding twelve months:

Provided that when an order under clause (a) of this paragraph has been made, the Governor may take the action referred to in clause (b) of this paragraph with regard to the administration of the area in question pending the reconstitution of the Council on fresh general election:

Provided further that no action shall be taken under clause (b) of this paragraph without giving the District or the Regional Council, as the case may be, an opportunity of placing its views before the Legislature of the State.

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1. Paragraph 16 has been amended in its application to the States of Tripura and Mizoram by the Sixth Schedule to the Constitution (Amendment) Act, 1988 (67 of 1988) s. 2 (w.e.f. 16-12-1988), as under,—

‘(a) in sub-paragraph (1), the words “subject to the previous approval of the Legislature of the State” occurring in clause (b), and the second proviso shall be omitted;

(b) for sub-paragraph (3), the following sub-paragraph shall be substituted, namely:—

“(3) Every order made under sub-paragraph (1) or sub-paragraph (2) of this paragraph, along with the reasons therefor shall be laid before the Legislature of the State.”.

2. Paragraph 16 renumbered as sub-paragraph (1) thereof by the Assam Reorganisation (Meghalaya) Act, 1969 (55 of 1969), s. 74 and Fourth Sch. (w.e.f. 2-4-1970).

<sup>1</sup>[(2) If at any time the Governor is satisfied that a situation has arisen in which the administration of an autonomous district or region cannot be carried on in accordance with the provisions of this Schedule, he may, by public notification, assume to himself all or any of the functions or powers vested in or exercisable by the District Council or, as the case may be, the Regional Council and declare that such functions or powers shall be exercisable by such person or authority as he may specify in this behalf, for a period not exceeding six months:

Provided that the Governor may by a further order or orders extend the operation of the initial order by a period not exceeding six months on each occasion.

(3) Every order made under sub-paragraph (2) of this paragraph with the reasons therefor shall be laid before the Legislature of the State and shall cease to operate at the expiration of thirty days from the date on which the State Legislature first sits after the issue of the order, unless, before the expiry of that period it has been approved by that State Legislature.]

<sup>2</sup>17. **Exclusion of areas from autonomous districts in forming constituencies in such districts.**—For the purposes of elections to <sup>3</sup>[the Legislative Assembly of Assam or Meghalaya] <sup>4</sup>[or Tripura] <sup>5</sup>[or Mizoram], the Governor may by order declare that any area within an autonomous district <sup>6</sup>[in the State of Assam or Meghalaya] <sup>4</sup>[or Tripura] <sup>5</sup>[or Mizoram], as the case may be, shall not form part of any constituency to fill a seat or seats in the Assembly reserved for any such district but shall form part of a constituency to fill a seat or seats in the Assembly not so reserved to be specified in the order.

<sup>7</sup>[18.\* \* \* \* \*]

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1. Added by the Assam Reorganisation (Meghalaya) Act, 1969 (55 of 1969), s. 74 and Fourth Sch. (w.e.f. 2-4-1970).
  2. Paragraph 17 has been amended in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 2003 (44 of 2003), s. 2 (w.e.f. 7-9-2003) so as to insert the following proviso, namely:—  
“Provided that nothing in this paragraph shall apply to the Bodoland Territorial Areas District.”.
  3. Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71(i) and Eighth Sch., for "the Legislative Assembly of Assam" (w.e.f. 21-1-1972).
  4. Ins. by the Constitution (Forty-ninth Amendment) Act, 1984, s. 4 (w.e.f. 1-4-1985).
  5. Ins. by the State of Mizoram Act, 1986 (34 of 1986), s. 39 (w.e.f. 20-2-1987).
  6. Ins. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71(i) and Eighth Sch., for "the Legislative Assembly of Assam" (w.e.f. 21-1-1972).
  7. Paragraph 18 omitted by s. 71(i) and Eighth Sch., *ibid.* (w.e.f. 21-1-1972).

<sup>1</sup>19. **Transitional provisions.**—(1) As soon as possible after the commencement of this Constitution the Governor shall take steps for the constitution of a District Council for each autonomous district in the State under this Schedule and, until a District Council is so constituted for an autonomous district, the administration of such district shall be vested in the Governor and the following provisions shall apply to the administration of the areas within such district instead of the foregoing provisions of this Schedule, namely:—

(a) no Act of Parliament or of the Legislature of the State shall apply to any such area unless the Governor by public notification so directs; and the Governor in giving such a direction with respect to any Act may direct that the Act shall, in its application to the area or to any specified part thereof, have effect subject to such exceptions or modifications as he thinks fit;

(b) the Governor may make regulations for the peace and good government of any such area and any regulations so made may repeal or amend any Act of Parliament or of the Legislature of the State or any existing law which is for the time being applicable to such area.

(2) Any direction given by the Governor under clause (a) of sub-paragraph (1) of this paragraph may be given so as to have retrospective effect.

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1. Paragraph 19 has been amended in its application to the State of Assam by the Sixth Sch. to the Constitution (Amendment) Act, 2003 (44 of 2003), s. 2 (w.e.f. 7-9-2003), so as to insert the following sub-paragraph after sub-paragraph (3), namely :—

‘(4) As soon as possible after the commencement of this Act and Interim Executive Council for Bodoland Territorial Areas District in Assam shall be formed by the Governor from amongst leaders of the Bodo movement, including the signatories to the Memorandum of Settlement, and shall provide adequate representation to the non-tribal communities in that area:

Provided that Interim Council shall be for a period of six months during which endeavour to hold the election to the Council shall be made.

*Explanation.*—For the purposes of this sub-paragraph, the expression “Memorandum of Settlement” means the Memorandum signed on the 10th day of February, 2003 between Government of India, Government of Assam and Bodo Liberation Tigers.’.

(3) All regulations made under clause (b) of sub-paragraph (1) of this paragraph shall be submitted forthwith to the President and, until assented to by him, shall have no effect.

<sup>1</sup>[20. **Tribal areas.**—(1) The areas specified in Parts I, II <sup>2</sup>[, IIA] and III of the table below shall respectively be the tribal areas within the State of Assam, the State of Meghalaya <sup>2</sup>[, the State of Tripura] and the <sup>3</sup>[State] of Mizoram.

(2) <sup>4</sup>[Any reference in Part I, Part II or Part III of the table below] to any district shall be construed as a reference to the territories comprised within the autonomous district of that name existing immediately before the day appointed under clause (b) of section 2 of the North-Eastern Areas (Reorganisation) Act, 1971:

Provided that for the purposes of clauses (e) and (f) of sub-paragraph (1) of paragraph 3, paragraph 4, paragraph 5, paragraph 6, sub-paragraph (2), clauses (a), (b) and (d) of sub-paragraph (3) and sub-paragraph (4) of paragraph 8 and clause (d) of sub-paragraph (2) of paragraph 10 of this Schedule, no part of the area comprised within the municipality of Shillong shall be deemed to be within the <sup>5</sup>[Khasi Hills District].

<sup>2</sup>[(3) The reference in Part IIA in the table below to the "Tripura Tribal Areas District" shall be construed as a reference to the territory comprising the tribal areas specified in the First Schedule to the Tripura Tribal Areas Autonomous District Council Act, 1979.]

1. Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71(i) and Eighth Sch., for paragraphs 20 and 20A (w.e.f. 21-1-1972) and paragraph 20A further substituted by the Government of Union Territory (Amendment) Act, 1971 (83 of 1971) s. 13 (w.e.f. 29-4-1972).

2. Ins. by the Constitution (Forty-ninth Amendment) Act, 1984, s. 4 (w.e.f. 1-4-1985).

3. Subs. by the State of Mizoram Act, 1986 (34 of 1986), s. 39, for "Union territory" (w.e.f. 20-2-1987).

4. Subs. by the Constitution (Forty-ninth Amendment) Act, 1984, s. 4, for "any reference in the table below" (w.e.f. 1-4-1985).

5. Subs. by the Government of Meghalaya Notification No. DCA 31/72/11, dated the 14th June, 1973, Gazette of Meghalaya, Pt. VA, dated 23-6-1973, p. 200.

## TABLE

**PART I**

1. The North Cachar Hills District.
2. <sup>1</sup>[The Karbi Anglong District.]
- <sup>2</sup>3. The Bodoland Territorial Areas District.]

**PART II**

- <sup>3</sup>1. Khasi Hills District.
2. Jaintia Hills District.]
3. The Garo Hills District.

<sup>4</sup>**[PART IIA]**

Tripura Tribal Areas District]

**Part III**

<sup>5</sup>\* \* \*

- <sup>6</sup>1. The Chakma District.
- <sup>7</sup>2. The Mara District.
3. The Lai District.]]

<sup>8</sup>[20A. **Dissolution of the Mizo District Council.**—(1) Notwithstanding anything in this Schedule, the District Council of the Mizo District existing immediately before the prescribed date (hereinafter referred to as the Mizo District Council) shall stand dissolved and cease to exist.

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1. Subs. by the Government of Assam Notification No. TAD/R/115/74/47, dated 14-10-1976 for "The Mikir Hills District".
  2. Ins. by the Sixth Schedule to the Constitution (Amendment) Act, 2003 (44 of 2003), s. 2 (w.e.f. 7-9-2003).
  3. Subs. by the Government of Meghalaya Notification No. DCA 31/72/11, dated the 14th June, 1973, Gazette of Meghalaya, Pt. VA, dated 23-6-1973, p. 200.
  4. Ins. by the Constitution (Forty-ninth Amendment) Act, 1984, s. 4 (w.e.f. 1-4-1985).
  5. The words "The Mizo District." omitted by the Government of Union Territories (Amendment) Act, 1971 (83 of 1971), s. 13 (w.e.f. 16-2-1972).
  6. Ins. by the Mizoram District Councils (Miscellaneous Provisions) Order, 1972, published in the Mizoram Gazette, 1972, dated the 5th May, 1972, Vol. I, Pt. II, p.17 (w.e.f. 29-4-1972).
  7. Subs. by the Sixth Schedule to the Constitution (Amendment) Act, 1988 (67 of 1988), s. 2, for serial numbers 2 and 3 and the entries relating thereto (w.e.f. 16-12-1988).
  8. Subs. by the North-Eastern Areas (Recognition) Act, 1971 (81 of 1971), s. 71(i) and Eight Sch. for paragraph 20 (w.e.f. 21-1-1972) and further subs. by the Government of Union Territory (Amendment) Act, 1971 (83 of 1971), s. 13 for paragraph 20A (w.e.f. 16-2-1972).

(2) The Administrator of the Union territory of Mizoram may, by one or more orders, provide for all or any of the following matters, namely:—

(a) the transfer, in whole or in part, of the assets, rights and liabilities of the Mizo District Council (including the rights and liabilities under any contract made by it) to the Union or to any other authority;

(b) the substitution of the Union or any other authority for the Mizo District Council, or the addition of the Union or any other authority, as a party to any legal proceedings to which the Mizo District Council is a party;

(c) the transfer or re-employment of any employees of the Mizo District Council to or by the Union or any other authority, the terms and conditions of service applicable to such employees after such transfer or re-employment;

(d) the continuance of any laws, made by the Mizo District Council and in force immediately before its dissolution, subject to such adaptations and modifications, whether by way of repeal or amendment, as the Administrator may make in this behalf, until such laws are altered, repealed or amended by a competent Legislature or other competent authority;

(e) such incidental, consequential and supplementary matters as the Administrator considers necessary.

*Explanation.*—In this paragraph and in paragraph 20B of this Schedule, the expression "prescribed date" means the date on which the Legislative Assembly of the Union territory of Mizoram is duly constituted under and in accordance with the provisions of the Government of Union Territories Act, 1963. (20 of 1963)]

<sup>1</sup>[20B. **Autonomous regions in the Union territory of Mizoram to be autonomous districts and transitory provisions consequent thereto.**—(1) Notwithstanding anything in this Schedule,—

(a) every autonomous region existing immediately before the prescribed date in the Union territory of Mizoram shall, on and from that date, be an autonomous district in that Union territory (hereafter referred to as the corresponding new district) and the Administrator thereof may, by one or more orders, direct that such consequential amendments as are necessary to give effect to the provisions of this clause shall be made in paragraph 20 of this Schedule (including Part III of the table appended to that paragraph) and thereupon the said paragraph and the said Part III shall be deemed to have been amended accordingly;

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1. Sub. by the Government of Union Territory (Amendment) Act, 1971 (83 of 1971), s. 13 for paragraph 20A (w.e.f. 16-2-1972).



(b) every Regional Council of an autonomous region in the Union territory of Mizoram existing immediately before the prescribed date (hereafter referred to as the existing Regional Council) shall, on and from that date and until a District Council is duly constituted for the corresponding new district, be deemed to be the District Council of that district (hereafter referred to as the corresponding new District Council).

(2) Every member whether elected or nominated of an existing Regional Council shall be deemed to have been elected or, as the case may be, nominated to the corresponding new District Council and shall hold office until a District Council is duly constituted for the corresponding new district under this Schedule.

(3) Until rules are made under sub-paragraph (7) of paragraph 2 and sub-paragraph (4) of paragraph 4 of this Schedule by the corresponding new District Council, the rules made under the said provisions by the existing Regional Council and in force immediately before the prescribed date shall have effect in relation to the corresponding new District Council subject to such adaptations and modifications as may be made therein by the Administrator of the Union territory of Mizoram.

(4) The Administrator of the Union territory of Mizoram may, by one or more orders, provide for all or any of the following matters, namely:—

(a) the transfer in whole or in part of the assets, rights and liabilities of the existing Regional Council (including the rights and liabilities under any contract made by it) to the corresponding new District Council;

(b) the substitution of the corresponding new District Council for the existing Regional Council as a party to the legal proceedings to which the existing Regional Council is a party;

(c) the transfer or re-employment of any employees of the existing Regional Council to or by the corresponding new District Council, the terms and conditions of service applicable to such employees after such transfer or re-employment;

(d) the continuance of any laws made by the existing Regional Council and in force immediately before the prescribed date, subject to such adaptations and modifications, whether by way of repeal or amendment, as the Administrator may make in this behalf until such laws are altered, repealed or amended by a competent Legislature or other competent authority;

(e) such incidental, consequential and supplementary matters as the Administrator considers necessary.]

<sup>1</sup>[20BA. **Exercise of discretionary powers by the Governor in the discharge of his functions.**—The Governor in the discharge of his functions under sub-paragraphs (2) and (3) of paragraph 1, sub-paragraphs (1), (6), sub-paragraph (6A) excluding the first proviso and sub-paragraph (7) of paragraph 2, sub-paragraph (3) of paragraph 3, sub-paragraph (4) of paragraph 4, paragraph 5, sub-paragraph (1) of paragraph 6, sub-paragraph (2) of paragraph 7, sub-paragraph (4) of paragraph 8, sub-paragraph (3) of paragraph 9, sub-paragraph (3) of paragraph 10, sub-paragraph (1) of paragraph 14, sub-paragraph (1) of paragraph 15 and sub-paragraphs (1) and (2) of paragraph 16 of this Schedule, shall, after consulting the Council of Ministers and the North Cachar Hills Autonomous Council or the Karbi Anglong Autonomous Council, as the case may be, take such action as he considers necessary in his discretion.]

<sup>2</sup>[20BB. **Exercise of discretionary powers by the Governor in the discharge of his functions.**—The Governor, in the discharge of his functions under sub-paragraphs (2) and (3) of paragraph 1, sub-paragraphs (1) and (7) of paragraph 2, sub-paragraph (3) of paragraph 3, sub-paragraph (4) of paragraph 4, paragraph 5, sub-paragraph (1) of paragraph 6, sub-paragraph (2) of paragraph 7, sub-paragraph (3) of paragraph 9, sub-paragraph (1) of paragraph 14, sub-paragraph (1) of paragraph 15 and sub-paragraphs (1) and (2) of paragraph 16 of this Schedule, shall, after consulting the Council of Ministers, and if he thinks it necessary, the District Council or the Regional Council concerned, take such action as he considers necessary in his discretion.]

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1. Paragraph 20BA has been inserted in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 1995 (42 of 1995), s. 2 (w.e.f. 12-9-1995).
  2. Paragraph 20BB has been inserted in its application to the States of Tripura and Mizoram, by the Sixth Schedule to the Constitution (Amendment) Act, 1988 (67 of 1988), s. 2 (w.e.f. 16-12-1988).

<sup>1</sup>[20C. **Interpretation.**—Subject to any provision made in this behalf, the provisions of this Schedule shall, in their application to the Union territory of Mizoram, have effect—

(1) as if references to the Governor and Government of the State were references to the Administrator of the Union territory appointed under article 239, references to State (except in the expression "Government of the State") were references to the Union territory of Mizoram and references to the State Legislature were references to the Legislative Assembly of the Union territory of Mizoram;

(2) as if—

(a) in sub-paragraph (5) of paragraph 4, the provision for consultation with the Government of the State concerned had been omitted;

(b) in sub-paragraph (2) of paragraph 6, for the words "to which the executive power of the State extends", the words "with respect to which the Legislative Assembly of the Union territory of Mizoram has power to make laws" had been substituted;

(c) in paragraph 13, the words and figures "under article 202" had been omitted.]

**21. Amendment of the Schedule.**—(1) Parliament may from time to time by law amend by way of addition, variation or repeal any of the provisions of this Schedule and, when the Schedule is so amended, any reference to this Schedule in this Constitution shall be construed as a reference to such Schedule as so amended.

(2) No such law as is mentioned in sub-paragraph (1) of this paragraph shall be deemed to be an amendment of this Constitution for the purposes of article 368.

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1. Sub. by the Government of Union Territories (Amendment) Act, 1971 (83 of 1971), s. 13 for paragraph 20A (w.e.f. 16-2-1972).

## SEVENTH SCHEDULE

(Article 246)

### List I—Union List

1. Defence of India and every part thereof including preparation for defence and all such acts as may be conducive in times of war to its prosecution and after its termination to effective demobilisation.

2. Naval, military and air forces; any other armed forces of the Union.

<sup>1</sup>[2A. Deployment of any armed force of the Union or any other force subject to the control of the Union or any contingent or unit thereof in any State in aid of the civil power; powers, jurisdiction, privileges and liabilities of the members of such forces while on such deployment.]

3. Delimitation of cantonment areas, local self-government in such areas, the constitution and powers within such areas of cantonment authorities and the regulation of house accommodation (including the control of rents) in such areas.

4. Naval, military and air force works.

5. Arms, firearms, ammunition and explosives.

6. Atomic energy and mineral resources necessary for its production.

7. Industries declared by Parliament by law to be necessary for the purpose of defence or for the prosecution of war.

8. Central Bureau of Intelligence and Investigation.

9. Preventive detention for reasons connected with Defence, Foreign Affairs, or the security of India; persons subjected to such detention.

10. Foreign affairs; all matters which bring the Union into relation with any foreign country.

11. Diplomatic, consular and trade representation.

12. United Nations Organisation.

13. Participation in international conferences, associations and other bodies and implementing of decisions made thereat.

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

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1. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 57 (w.e.f. 3-1-1977).

15. War and peace.
16. Foreign jurisdiction.
17. Citizenship, naturalisation and aliens.
18. Extradition.
19. Admission into, and emigration and expulsion from, India; passports and visas.
20. Pilgrimages to places outside India.
21. Piracies and crimes committed on the high seas or in the air; offences against the law of nations committed on land or the high seas or in the air.
22. Railways.
23. Highways declared by or under law made by Parliament to be national highways.
24. Shipping and navigation on inland waterways, declared by Parliament by law to be national waterways, as regards mechanically propelled vessels; the rule of the road on such waterways.
25. Maritime shipping and navigation, including shipping and navigation on tidal waters; provision of education and training for the mercantile marine and regulation of such education and training provided by States and other agencies.
26. Lighthouses, including lightships, beacons and other provision for the safety of shipping and aircraft.
27. Ports declared by or under law made by Parliament or existing law to be major ports, including their delimitation, and the constitution and powers of port authorities therein.
28. Port quarantine, including hospitals connected therewith; seamen's and marine hospitals.
29. Airways; aircraft and air navigation; provision of aerodromes; regulation and organisation of air traffic and of aerodromes; provision for aeronautical education and training and regulation of such education and training provided by States and other agencies.
30. Carriage of passengers and goods by railway, sea or air, or by national waterways in mechanically propelled vessels.

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

32. Property of the Union and the revenue therefrom, but as regards property situated in a State <sup>1\*\*\*</sup> subject to legislation by the State, save in so far as Parliament by law otherwise provides.

<sup>2</sup>[33\* \* \* \* \*]

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

35. Public debt of the Union.

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

37. Foreign loans.

38. Reserve Bank of India.

39. Post Office Savings Bank.

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

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

42. Inter-State trade and commerce.

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

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

45. Banking.

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

47. Insurance.

48. Stock exchanges and futures markets.

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

1. The words and letters "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

2. Entry 33 omitted by s. 26, *ibid.* (w.e.f. 1-11-1956).

50. Establishment of standards of weight and measure.
51. Establishment of standards of quality for goods to be exported out of India or transported from one State to another.
52. Industries, the control of which by the Union is declared by Parliament by law to be expedient in the public interest.
53. Regulation and development of oilfields and mineral oil resources; petroleum and petroleum products; other liquids and substances declared by Parliament by law to be dangerously inflammable.
54. Regulation of mines and mineral development to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest.
55. Regulation of labour and safety in mines and oilfields.
56. Regulation and development of inter-State rivers and river valleys to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest.
57. Fishing and fisheries beyond territorial waters.
58. Manufacture, supply and distribution of salt by Union agencies; regulation and control of manufacture, supply and distribution of salt by other agencies.
59. Cultivation, manufacture, and sale for export, of opium.
60. Sanctioning of cinematograph films for exhibition.
61. Industrial disputes concerning Union employees.
62. The institutions known at the commencement of this Constitution as the National Library, the Indian Museum, the Imperial War Museum, the Victoria Memorial and the Indian War Memorial, and any other like institution financed by the Government of India wholly or in part and declared by Parliament by law to be an institution of national importance.
63. The institutions known at the commencement of this Constitution as the Benares Hindu University, the Aligarh Muslim University and the <sup>1</sup>[Delhi University; the University established in pursuance of article 371E;] any other institution declared by Parliament by law to be an institution of national importance.

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1. Subs. by the Constitution (Thirty-second Amendment) Act, 1973, s. 4, for "Delhi University and" (w.e.f. 1-7-1974).

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

65. Union agencies and institutions for—

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

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

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

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

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

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

69. Census.

70. Union Public Service; All-India Services; Union Public Service Commission.

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

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

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

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

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

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1. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 27, for "declared by Parliament by law" (w.e.f. 1-11-1956).



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

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

78. Constitution and organisation <sup>1</sup>[(including vacations)] of the High Courts except provisions as to officers and servants of High Courts; persons entitled to practise before the High Courts.

<sup>2</sup>[79. Extension of the jurisdiction of a High Court to, and exclusion of the jurisdiction of a High Court from, any Union territory.]

80. Extension of the powers and jurisdiction of members of a police force belonging to any State to any area outside that State, but not so as to enable the police of one State to exercise powers and jurisdiction in any area outside that State without the consent of the Government of the State in which such area is situated; extension of the powers and jurisdiction of members of a police force belonging to any State to railway areas outside that State.

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

82. Taxes on income other than agricultural income.

83. Duties of customs including export duties.

<sup>3</sup>[84. Duties of excise on the following goods manufactured or produced in India, namely:—

- (a) petroleum crude;
- (b) high speed diesel;
- (c) motor spirit (commonly known as petrol);
- (d) natural gas;
- (e) aviation turbine fuel; and
- (f) tobacco and tobacco products.]

85. Corporation tax.

1. Ins. by the Constitution (Fifteenth Amendment) Act, 1963, s. 12 (with retrospective effect).

2. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. for entry 79 (w.e.f. 1-11-1956).

3. Subs. by the Constitution (One Hundred and First Amendment) Act, 2016, s. 17(a)(i) for entry 84 (w.e.f. 16-9-2016).

86. Taxes on the capital value of the assets, exclusive of agricultural land, of individuals and companies; taxes on the capital of companies.

87. Estate duty in respect of property other than agricultural land.

88. Duties in respect of succession to property other than agricultural land.

89. Terminal taxes on goods or passengers, carried by railway, sea or air; taxes on railway fares and freights.

90. Taxes other than stamp duties on transactions in stock exchanges and futures markets.

91. Rates of stamp duty in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares, debentures, proxies and receipts.

<sup>1</sup>[92. \* \* \* \* \*]

<sup>2</sup>[92A. Taxes on the sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce.]

<sup>3</sup>[92B. Taxes on the consignments 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.]

<sup>4</sup>[92C. \* \* \* \* \*]

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

94. Inquires, surveys and statistics for the purpose of any of the matters in this List.

95. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this List; admiralty jurisdiction.

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

97. Any other matter not enumerated in List II or List III including any tax not mentioned in either of those Lists.

1. Entry 92 omitted by the Constitution (One Hundred and First Amendment) Act, 2016, s. 17(a)(ii) (w.e.f. 16-9-2016).

2. Ins. by the Constitution (Sixth Amendment) Act, 1956, s. 2 (w.e.f. 11-9-1956).

3. Ins. by the Constitution (Forty-sixth Amendment) Act, 1982, s. 5 (w.e.f. 2-2-1983).

4. Entry 92C was ins. by the Constitution (Eighty-eighth Amendment) Act, 2003, s. 4 (which was not enforced) and omitted by the Constitution (One Hundred and First Amendment) Act, 2016, s. 17(a)(ii) (w.e.f. 16-9-2016).

**List II—State List**

1. Public order (but not including <sup>1</sup>[the use of any naval, military or air force or any other armed force of the Union or of any other force subject to the control of the Union or of any contingent or unit thereof] in aid of the civil power).

<sup>2</sup>[2. Police (including railway and village police) subject to the provisions of entry 2A of List I.]

3. <sup>3</sup>\*\*\* Officers and servants of the High Court; procedure in rent and revenue courts; fees taken in all courts except the Supreme Court.

4. Prisons, reformatories, Borstal institutions and other institutions of a like nature, and persons detained therein; arrangements with other States for the use of prisons and other institutions.

5. Local government, that is to say, the constitution and powers of municipal corporations, improvement trusts, districts boards, mining settlement authorities and other local authorities for the purpose of local self-government or village administration.

6. Public health and sanitation; hospitals and dispensaries.

7. Pilgrimages, other than pilgrimages to places outside India.

8. Intoxicating liquors, that is to say, the production, manufacture, possession, transport, purchase and sale of intoxicating liquors.

9. Relief of the disabled and unemployable.

10. Burials and burial grounds; cremations and cremation grounds.

<sup>4</sup>[11\* \* \* \* \*]

12. Libraries, museums and other similar institutions controlled or financed by the State; ancient and historical monuments and records other than those <sup>5</sup>[declared by or under law made by Parliament] to be of national importance.

1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 57, for certain words (w.e.f. 3-1-1977).

2. Subs. by s. 57, for entry 2, *ibid.* (w.e.f. 3-1-1977).

3. Certain words omitted by s. 57, *ibid.* (w.e.f. 3-1-1977).

4. Entry 11 omitted by s. 57, *ibid.* (w.e.f. 3-1-1977).

5. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 27, for "declared by Parliament by law" (w.e.f. 1-11-1956).

13. Communications, that is to say, roads, bridges, ferries, and other means of communication not specified in List I; municipal tramways; ropeways; inland waterways and traffic thereon subject to the provisions of List I and List III with regard to such waterways; vehicles other than mechanically propelled vehicles.

14. Agriculture, including agricultural education and research, protection against pests and prevention of plant diseases.

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

16. Pounds and the prevention of cattle trespass.

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

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

<sup>1</sup> [19*	*	*	*	*
20*	*	*	*	*]

21. Fisheries.

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

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

24. Industries subject to the provisions of <sup>2</sup>[entries 7 and 52] of List I.

25. Gas and gas-works.

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

1. Entries 19 and 20 omitted by the Constitution (Forty-second Amendment) Act, 1976, s. 57 (w.e.f. 3-1-1977).

2. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 28 for entry 52 (w.e.f. 1-11-1956).

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

28. Markets and fairs.

<sup>1</sup>[29\* \* \* \* \*]

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

31. Inns and inn-keepers.

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

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

34. Betting and gambling.

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

<sup>2</sup>[36\* \* \* \* \*]

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

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

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

40. Salaries and allowances of Ministers for the State.

41. State public services; State Public Service Commission.

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

43. Public debt of the State.

44. Treasure trove.

1. Entry 29 omitted by the Constitution (Forty-second Amendment) Act, 1976, s. 57 (w.e.f. 3-1-1977).

2. Entry 36 omitted by the Constitution (Seventh Amendment) Act, 1956, s. 26 (w.e.f. 1-11-1956).

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

46. Taxes on agricultural income.

47. Duties in respect of succession to agricultural land.

48. Estate duty in respect of agricultural land.

49. Taxes on lands and buildings.

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

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

(a) alcoholic liquors for human consumption;

(b) opium, Indian hemp and other narcotic drugs and narcotics,

but not including medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (b) of this entry.

<sup>1</sup>[52. \* \* \* \* \*]

53. Taxes on the consumption or sale of electricity.

<sup>2</sup>[54. Taxes on the sale of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, aviation turbine fuel and alcoholic liquor for human consumption, but not including sale in the course of inter-State trade or commerce or sale in the course of international trade or commerce of such goods.]

<sup>3</sup>[55. \* \* \* \* \*]

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

1. Entry 52 omitted by the Constitution (One Hundred and First Amendment) Act, 2016, s. 17(b)(i) (w.e.f. 16-9-2016).

2. Subs. by the Constitution (Sixth Amendment) Act, 1956, s. 2 (w.e.f. 11-9-1956) and further subs. by the Constitution (One Hundred and First Amendment) Act, 2016, s. 17(b)(ii) (w.e.f. 16-9-2016).

3. Entry 55 omitted by the Constitution (One Hundred and First Amendment) Act, 2016, s. 17(b)(iii) (w.e.f. 16-9-2016).

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

58. Taxes on animals and boats.

59. Tolls.

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

61. Capitation taxes.

<sup>1</sup>[62. Taxes on entertainments and amusements to the extent levied and collected by a Panchayat or a Municipality or a Regional Council or a District Council.]

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

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

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

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

#### **List III—Concurrent List**

1. Criminal law, including all matters included in the Indian Penal Code at the commencement of this Constitution but excluding offences against laws with respect to any of the matters specified in List I or List II and excluding the use of naval, military or air forces or any other armed forces of the Union in aid of the civil power.

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

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

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

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1. Subs. by the Constitution (One Hundred and First Amendment) Act, 2016, s. 17(b)(iv), for entry 62 (w.e.f. 16-9-2016).

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

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

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

8. Actionable wrongs.

9. Bankruptcy and insolvency.

10. Trust and Trustees.

11. Administrators-general and official trustees.

<sup>1</sup>[11A. Administration of Justice; constitution and organisation of all courts, except the Supreme Court and the High Courts.]

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

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

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

15. Vagrancy; nomadic and migratory tribes.

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

17. Prevention of cruelty to animals.

<sup>1</sup>[17A. Forests.

17B. Protection of wild animals and birds.]

18. Adulteration of foodstuffs and other goods.

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

20. Economic and social planning.

<sup>1</sup>[20A. Population control and family planning.]

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1. Entries 11A, 17A, 17B and 20A ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 57 (w.e.f. 3-1-1977).



21. Commercial and industrial monopolies, combines and trusts.
22. Trade unions; industrial and labour disputes.
23. Social security and social insurance; employment and unemployment.
24. Welfare of labour including conditions of work, provident funds, employers' liability, workmen's compensation, invalidity and old age pensions and maternity benefits.
- <sup>1</sup>[25. Education, including technical education, medical education and universities, subject to the provisions of entries 63, 64, 65 and 66 of List I; vocational and technical training of labour.]
26. Legal, medical and other professions.
27. Relief and rehabilitation of persons displaced from their original place of residence by reason of the setting up of the Dominions of India and Pakistan.
28. Charities and charitable institutions, charitable and religious endowments and religious institutions.
29. Prevention of the extension from one State to another of infectious or contagious diseases or pests affecting men, animals or plants.
30. Vital statistics including registration of births and deaths.
31. Ports other than those declared by or under law made by Parliament or existing law to be major ports.
32. Shipping and navigation on inland waterways as regards mechanically propelled vessels, and the rule of the road on such waterways, and the carriage of passengers and goods on inland waterways subject to the provisions of List I with respect to national waterways.
- <sup>2</sup>[33. Trade and commerce in, and the production, supply and distribution of,—
  - (a) the products of any industry where the control of such industry by the Union is declared by Parliament by law to be expedient in the public interest, and imported goods of the same kind as such products;
  - (b) foodstuffs, including edible oilseeds and oils;
  - (c) cattle fodder, including oilcakes and other concentrates;
  - (d) raw cotton, whether ginned or unginned, and cotton seed; and
  - (e) raw jute.]

1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 57 (w.e.f. 3-1-1977).

2. Subs. by the Constitution (Third Amendment) Act, 1954, s. 2 for entry 33 (w.e.f. 22-2-1955).

<sup>1</sup>[33A. Weights and measures except establishment of standards.]

34. Price control.

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

36. Factories

37. Boilers.

38. Electricity.

39. Newspapers, books and printing presses.

40. Archaeological sites and remains other than those <sup>2</sup>[declared by or under law made by Parliament] to be of national importance.

41. Custody, management and disposal of property (including agricultural land) declared by law to be evacuee property.

<sup>3</sup>[42. Acquisition and requisitioning of property.]

43. Recovery in a State of claims in respect of taxes and other public demands, including arrears of land-revenue and sums recoverable as such arrears, arising outside that State.

44. Stamp duties other than duties or fees collected by means of judicial stamps, but not including rates of stamp duty.

45. Inquiries and statistics for the purposes of any of the matters specified in List II or List III.

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

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

1. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 57 (w.e.f. 3-1-1977).

2. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 27, for "declared by Parliament by law" (w.e.f. 1-11-1956).

3. Subs. by s. 26, *ibid.* for entry 42 (w.e.f. 1-11-1956).

**EIGHTH SCHEDULE**  
[Articles 344(1) and 351]

**Languages**

1. Assamese.
2. Bengali.
- <sup>1</sup>[3. Bodo.
4. Dogri.]
- <sup>2</sup>[5.] Gujarati.
- <sup>3</sup>[6.] Hindi.
- <sup>3</sup>[7.] Kannada.
- <sup>3</sup>[8.] Kashmiri.
- <sup>4</sup>[<sup>3</sup>9.] Konkani.]
- <sup>1</sup>[10. Maithili.]
- <sup>5</sup>[11.] Malayalam.
- <sup>4</sup>[<sup>6</sup>12.] Manipuri.]
- <sup>6</sup>[13.] Marathi.
- <sup>4</sup>[<sup>6</sup>14.] Nepali.]
- <sup>6</sup>[15.] <sup>7</sup>[Odia].
- <sup>6</sup>[16.] Punjabi.
- <sup>6</sup>[17.] Sanskrit.

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1. Ins. by the Constitution (Ninety-second Amendment) Act, 2003, s. 2 (w.e.f. 7-1-2004).
  2. Entry 3 renumbered as entry 5 by s. 2, *ibid.* (w.e.f. 7-1-2004).
  3. Entries 4 to 7 renumbered as entries 6 to 9 by s. 2, *ibid.* (w.e.f. 7-1-2004).
  4. Ins. by the Constitution (Seventy-first Amendment) Act, 1992, s. 2 (w.e.f. 31-8-1992).
  5. Entry 8 renumbered as entry 11 by the Constitution (Ninety-second Amendment) Act, 2003, s. 2 (w.e.f. 7-1-2004).
  6. Entries 9 to 14 renumbered as entries 12 to 17 by s. 2, *ibid.* (w.e.f. 7-1-2004).
  7. Subs. by the Constitution (Ninety-sixth Amendment) Act, 2011, s. 2, for "Oriya" (w.e.f. 23-9-2011).

<sup>1</sup>[18. Santhali.]

<sup>2</sup><sup>3</sup>[19.] Sindhi.]

<sup>4</sup>[20.] Tamil.

<sup>4</sup>[21.] Telugu.

<sup>4</sup>[22.] Urdu.

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1. Ins. by the Constitution (Ninety-second Amendment) Act, 2003, s. 2 (w.e.f. 7-1-2004).

2. Added by the Constitution (Twenty-first Amendment) Act, 1967, s. 2 (w.e.f. 10-4-1967).

3. Entry 15 renumbered as entry 19 by the Constitution (Ninety-second Amendment) Act, 2003, s. 2 (w.e.f. 7-1-2004).

4. Entries 16 to 18 renumbered as entries 20 to 22 by s. 2, *ibid.* (w.e.f. 7-1-2004).

## <sup>1</sup>[NINTH SCHEDULE

(Article 31B)

1. The Bihar Land Reforms Act, 1950 (Bihar Act XXX of 1950).
2. The Bombay Tenancy and Agricultural Lands Act, 1948. (Bombay Act LXVII of 1948).
3. The Bombay Maleki Tenure Abolition Act, 1949 (Bombay Act LXI of 1949).
4. The Bombay Taluqdari Tenure Abolition Act, 1949. (Bombay Act LXII of 1949).
5. The Panch Mahals Mehwasai Tenure Abolition Act, 1949. (Bombay Act LXIII of 1949).
6. The Bombay Khoti Abolition Act, 1950 (Bombay Act VI of 1950).
7. The Bombay Paragana and Kulkarni Watan Abolition Act, 1950. (Bombay Act LX of 1950).
8. The Madhya Pradesh Abolition of Proprietary Rights (Estates, Mahals, Alienated Lands) Act, 1950 (Madhya Pradesh Act I of 1951).
9. The Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948 (Madras Act XXVI of 1948).
10. The Madras Estates (Abolition and Conversion into Ryotwari) Amendment Act, 1950 (Madras Act I of 1950).
11. The Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 (Uttar Pradesh Act I of 1951).
12. The Hyderabad (Abolition of Jagirs) Regulation, 1358F (No. LXIX of 1358, Fasli).
13. The Hyderabad Jagirs (Commutation) Regulation, 1359F (No. XXV of 1359, Fasli).]
- <sup>2</sup>[14. The Bihar Displaced Persons Rehabilitation (Acquisition of Land) Act, 1950 (Bihar Act XXXVIII of 1950).
15. The United Provinces Land Acquisition (Rehabilitation of Refugees) Act, 1948 (U.P. Act XXVI of 1948).
16. The Resettlement of Displaced Persons (Land Acquisition) Act, 1948 (Act LX of 1948).
17. Sections 52A to 52G of the Insurance Act, 1938 (Act IV of 1938), as inserted by section 42 of the Insurance (Amendment) Act, 1950 (Act XLVII of 1950).
18. The Railway Companies (Emergency Provisions) Act, 1951 (Act LI of 1951).

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1. Ninth Schedule (entries 1 to 13) added by the Constitution (First Amendment) Act, 1951, s. 14 (w.e.f. 18-6-1951).

2. Ninth Schedule (entries 14 to 20) added by the Constitution (Fourth Amendment) Act, 1955, s. 5 (w.e.f. 27-4-1955).

19. Chapter III-A of the Industries (Development and Regulation) Act, 1951 (Act LXV of 1951), as inserted by section 13 of the Industries (Development and Regulation) Amendment Act, 1953 (Act XXVI of 1953).

20. The West Bengal Land Development and Planning Act, 1948 (West Bengal Act XXI of 1948), as amended by West Bengal Act XXIX of 1951.]

<sup>1</sup>[21. The Andhra Pradesh Ceiling on Agricultural Holdings Act, 1961 (Andhra Pradesh Act X of 1961).

22. The Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands (Validation) Act, 1961 (Andhra Pradesh Act XXI of 1961).

23. The Andhra Pradesh (Telangana Area) Ijara and Kowli Land Cancellation of Irregular Pattas and Abolition of Concessional Assessment Act, 1961 (Andhra Pradesh Act XXXVI of 1961).

24. The Assam State Acquisition of Lands belonging to Religious or Charitable Institution of Public Nature Act, 1959 (Assam Act IX of 1961).

25. The Bihar Land Reforms (Amendment) Act, 1953 (Bihar Act XX of 1954).

26. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (Bihar Act XII of 1962), except section 28 of this Act.

27. The Bombay Taluqdari Tenure Abolition (Amendment) Act, 1954 (Bombay Act I of 1955).

28. The Bombay Taluqdari Tenure Abolition (Amendment) Act, 1957 (Bombay Act XVIII of 1958).

29. The Bombay Inams (Kutch Area) Abolition Act, 1958 (Bombay Act XCVIII of 1958).

30. The Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1960 (Gujarat Act XVI of 1960).

31. The Gujarat Agricultural Lands Ceiling Act, 1960 (Gujarat Act XXVI of 1961).

32. The Sagbara and Mehwasli Estates (Proprietary Rights Abolition, etc.) Regulation, 1962 (Gujarat Regulation I of 1962).

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1. Entries 21 to 64 and *Explanation* added by the Constitution (Seventeenth Amendment) Act, 1964, s. 3 (w.e.f. 20-6-1964).

33. The Gujarat Surviving Alienations Abolition Act, 1963 (Gujarat Act XXXIII of 1963), except in so far as this Act relates to an alienation referred to in sub-clause (d) of clause (3) of section 2 thereof.

34. The Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961 (Maharashtra Act XXVII of 1961).

35. The Hyderabad Tenancy and Agricultural Lands (Re-enactment, Validation and Further Amendment) Act, 1961 (Maharashtra Act XLV of 1961).

36. The Hyderabad Tenancy and Agricultural Lands Act, 1950 (Hyderabad Act XXI of 1950).

37. The Jenmikaram Payment (Abolition) Act, 1960 (Kerala Act III of 1961).

38. The Kerala Land Tax Act, 1961 (Kerala Act XIII of 1961).

39. The Kerala Land Reforms Act, 1963 (Kerala Act I of 1964).

40. The Madhya Pradesh Land Revenue Code, 1959 (Madhya Pradesh Act XX of 1959).

41. The Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960 (Madhya Pradesh Act XX of 1960).

42. The Madras Cultivating Tenants Protection Act, 1955 (Madras Act XXV of 1955).

43. The Madras Cultivating Tenants (Payment of Fair Rent) Act, 1956 (Madras Act XXIV of 1956).

44. The Madras Occupants of Kudiyruppu (Protection from Eviction) Act, 1961 (Madras Act XXXVIII of 1961).

45. The Madras Public Trusts (Regulation of Administration of Agricultural Lands) Act, 1961 (Madras Act LVII of 1961).

46. The Madras Land Reforms (Fixation of Ceiling on Land) Act, 1961 (Madras Act LVIII of 1961).

47. The Mysore Tenancy Act, 1952 (Mysore Act XIII of 1952).

48. The Coorg Tenants Act, 1957 (Mysore Act XIV of 1957).

49. The Mysore Village Offices Abolition Act, 1961 (Mysore Act XIV of 1961).

50. The Hyderabad Tenancy and Agricultural Lands (Validation) Act, 1961 (Mysore Act XXXVI of 1961).

51. The Mysore Land Reforms Act, 1961 (Mysore Act X of 1962).

52. The Orissa Land Reforms Act, 1960 (Orissa Act XVI of 1960).
53. The Orissa Merged Territories (Village Offices Abolition) Act, 1963 (Orissa Act X of 1963).
54. The Punjab Security of Land Tenures Act, 1953 (Punjab Act X of 1953).
55. The Rajasthan Tenancy Act, 1955 (Rajasthan Act III of 1955).
56. The Rajasthan Zamindari and Biswedari Abolition Act, 1959 (Rajasthan Act VIII of 1959).
57. The Kumaun and Uttarakhand Zamindari Abolition and Land Reforms Act, 1960 (Uttar Pradesh Act XVII of 1960).
58. The Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1960 (Uttar Pradesh Act I of 1961).
59. The West Bengal Estates Acquisition Act, 1953 (West Bengal Act I of 1954).
60. The West Bengal Land Reforms Act, 1955 (West Bengal Act X of 1956).
61. The Delhi Land Reforms Act, 1954 (Delhi Act VIII of 1954).
62. The Delhi Land Holdings (Ceiling) Act, 1960 (Central Act 24 of 1960).
63. The Manipur Land Revenue and Land Reforms Act, 1960 (Central Act 33 of 1960).
64. The Tripura Land Revenue and Land Reforms Act, 1960 (Central Act 43 of 1960).
- <sup>1</sup>[65. The Kerala Land Reforms (Amendment) Act, 1969 (Kerala Act 35 of 1969).
66. The Kerala Land Reforms (Amendment) Act, 1971 (Kerala Act 25 of 1971).]
- <sup>2</sup>[67. The Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (Andhra Pradesh Act 1 of 1973).
68. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1972 (Bihar Act I of 1973).

1. Entries 65 and 66 ins. by the Constitution (Twenty-ninth Amendment) Act, 1972, s. 2 (w.e.f. 9-6-1972).

2. Entries 67 and 86 ins. by the Constitution (Thirty-fourth Amendment) Act, 1974, s. 2 (w.e.f. 7-9-1974).



69. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1973 (Bihar Act IX of 1973).
70. The Bihar Land Reforms (Amendment) Act, 1972 (Bihar Act V of 1972).
71. The Gujarat Agricultural Lands Ceiling (Amendment) Act, 1972 (Gujarat Act 2 of 1974).
72. The Haryana Ceiling on Land Holdings Act, 1972 (Haryana Act 26 of 1972).
73. The Himachal Pradesh Ceiling on Land Holdings Act, 1972 (Himachal Pradesh Act 19 of 1973).
74. The Kerala Land Reforms (Amendment) Act, 1972 (Kerala Act 17 of 1972).
75. The Madhya Pradesh Ceiling on Agricultural Holdings (Amendment) Act, 1972 (Madhya Pradesh Act 12 of 1974).
76. The Madhya Pradesh Ceiling on Agricultural Holdings (Second Amendment) Act, 1972 (Madhya Pradesh Act 13 of 1974).
77. The Mysore Land Reforms (Amendment) Act, 1973 (Karnataka Act 1 of 1974).
78. The Punjab Land Reforms Act, 1972 (Punjab Act 10 of 1973).
79. The Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973 (Rajasthan Act 11 of 1973).
80. The Gudalur Janmam Estates (Abolition and Conversion into Ryotwari) Act, 1969 (Tamil Nadu Act 24 of 1969).
81. The West Bengal Land Reforms (Amendment) Act, 1972 (West Bengal Act XII of 1972).
82. The West Bengal Estates Acquisition (Amendment) Act, 1964 (West Bengal Act XXII of 1964).
83. The West Bengal Estates Acquisition (Second Amendment) Act, 1973 (West Bengal Act XXXIII of 1973).
84. The Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1972 (Gujarat Act 5 of 1973).
85. The Orissa Land Reforms (Amendment) Act, 1974 (Orissa Act 9 of 1974).
86. The Tripura Land Revenue and Land Reforms (Second Amendment) Act, 1974 (Tripura Act 7 of 1974).]

<sup>1</sup>[287\*                      \*                      \*                      \*                      \*]

88. The Industries (Development and Regulation) Act, 1951 (Central Act 65 of 1951).

89. The Requisitioning and Acquisition of Immovable Property Act, 1952 (Central Act 30 of 1952).

90. The Mines and Minerals (Regulation and Development) Act, 1957 (Central Act 67 of 1957).

\*91. The Monopolies and Restrictive Trade Practices Act, 1969 (Central Act 54 of 1969).

<sup>2</sup>[92\*                      \*                      \*                      \*                      \*]

93. The Coking Coal Mines (Emergency Provisions) Act, 1971 (Central Act 64 of 1971).

94. The Coking Coal Mines (Nationalisation) Act, 1972 (Central Act 36 of 1972).

95. The General Insurance Business (Nationalisation) Act, 1972 (Central Act 57 of 1972).

96. The Indian Copper Corporation (Acquisition of Undertaking) Act, 1972 (Central Act 58 of 1972).

97. The Sick Textile Undertakings (Taking Over of Management) Act, 1972 (Central Act 72 of 1972).

98. The Coal Mines (Taking Over of Management) Act, 1973 (Central Act 15 of 1973).

99. The Coal Mines (Nationalisation) Act, 1973 (Central Act 26 of 1973).

\*\*100. The Foreign Exchange Regulation Act, 1973 (Central Act 46 of 1973).

101. The Alcock Ashdown Company Limited (Acquisition of Undertakings) Act, 1973 (Central Act 56 of 1973).

1. Entries 87 to 124 ins. by the Constitution (Thirty-ninth Amendment) Act, 1975, s. 5 (w.e.f. 10-8-1975).

2. Entries 87 and 92 omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 44 (w.e.f. 20-6-1979).

\* Rep. by the Competition Act, 2002 (12 of 2003) s. 66 (w.e.f. 1-9-2009).

\*\* Rep. by the Foreign Exchange Management Act, 1999 (42 of 1999), s. 49 (w.e.f. 1-6-2000).

102. The Coal Mines (Conservation and Development) Act, 1974 (Central Act 28 of 1974).

103. The Additional Emoluments (Compulsory Deposit) Act, 1974 (Central Act 37 of 1974).

104. The Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (Central Act 52 of 1974).

105. The Sick Textile Undertakings (Nationalisation) Act, 1974 (Central Act 57 of 1974).

106. The Maharashtra Agricultural Lands (Ceiling on Holdings) (Amendment) Act, 1964 (Maharashtra Act XVI of 1965).

107. The Maharashtra Agricultural Lands (Ceiling on Holdings) (Amendment) Act, 1965 (Maharashtra Act XXXII of 1965).

108. The Maharashtra Agricultural Lands (Ceiling on Holdings) (Amendment) Act, 1968 (Maharashtra Act XVI of 1968).

109. The Maharashtra Agricultural Lands (Ceiling on Holdings) (Second Amendment) Act, 1968 (Maharashtra Act XXXIII of 1968).

110. The Maharashtra Agricultural Lands (Ceiling on Holdings) (Amendment) Act, 1969 (Maharashtra Act XXXVII of 1969).

111. The Maharashtra Agricultural Lands (Ceiling on Holdings) (Second Amendment) Act, 1969 (Maharashtra Act XXXVIII of 1969).

112. The Maharashtra Agricultural Lands (Ceiling on Holdings) (Amendment) Act, 1970 (Maharashtra Act XXVII of 1970).

113. The Maharashtra Agricultural Lands (Ceiling on Holdings) (Amendment) Act, 1972 (Maharashtra Act XIII of 1972).

114. The Maharashtra Agricultural Lands (Ceiling on Holdings) (Amendment) Act, 1973 (Maharashtra Act L of 1973).

115. The Orissa Land Reforms (Amendment) Act, 1965 (Orissa Act 13 of 1965).

116. The Orissa Land Reforms (Amendment) Act, 1966 (Orissa Act 8 of 1967).

117. The Orissa Land Reforms (Amendment) Act, 1967 (Orissa Act 13 of 1967).

118. The Orissa Land Reforms (Amendment) Act, 1969 (Orissa Act 13 of 1969).

119. The Orissa Land Reforms (Amendment) Act, 1970 (Orissa Act 18 of 1970).

120. The Uttar Pradesh Imposition of Ceiling on Land Holdings (Amendment) Act, 1972 (Uttar Pradesh Act 18 of 1973).

121. The Uttar Pradesh Imposition of Ceiling on Land Holdings (Amendment) Act, 1974 (Uttar Pradesh Act 2 of 1975).

122. The Tripura Land Revenue and Land Reforms (Third Amendment) Act, 1975 (Tripura Act 3 of 1975).

123. The Dadra and Nagar Haveli Land Reforms Regulation, 1971 (3 of 1971).

124. The Dadra and Nagar Haveli Land Reforms (Amendment) Regulation, 1973 (5 of 1973).]

<sup>1</sup>[125. Section 66A and Chapter IVA of the Motor Vehicles Act, 1939\* (Central Act 4 of 1939).

126. The Essential Commodities Act, 1955 (Central Act 10 of 1955).

127. The Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (Central Act 13 of 1976).

128. The Bonded Labour System (Abolition) Act, 1976 (Central Act 19 of 1976).

129. The Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Act, 1976 (Central Act 20 of 1976).

<sup>2</sup>130\* \* \* \* \*

131. The Levy Sugar Price Equalisation Fund Act, 1976 (Central Act 31 of 1976).

132. The Urban Land (Ceiling and Regulation) Act, 1976 (Central Act 33 of 1976).

1. Entries 125 to 188 ins. by the Constitution (Fortieth Amendment) Act, 1976, s. 3 (w.e.f. 27-5-1976).

\* See now the relevant provisions of the Motor Vehicles Act, 1988 (59 of 1988).

2. Entry 130 omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 44 (w.e.f. 20-6-1979).

133. The Departmentalisation of Union Accounts (Transfer of Personnel) Act, 1976 (Central Act 59 of 1976).
134. The Assam Fixation of Ceiling on Land Holdings Act, 1956 (Assam Act I of 1957).
135. The Bombay Tenancy and Agricultural Lands (Vidarbha Region) Act, 1958 (Bombay Act XCIX of 1958).
136. The Gujarat Private Forests (Acquisition) Act, 1972 (Gujarat Act 14 of 1973).
137. The Haryana Ceiling on Land Holdings (Amendment) Act, 1976 (Haryana Act 17 of 1976).
138. The Himachal Pradesh Tenancy and Land Reforms Act, 1972 (Himachal Pradesh Act 8 of 1974).
139. The Himachal Pradesh Village Common Lands Vesting and Utilisation Act, 1974 (Himachal Pradesh Act 18 of 1974).
140. The Karnataka Land Reforms (Second Amendment and Miscellaneous Provisions) Act, 1974 (Karnataka Act 31 of 1974).
141. The Karnataka Land Reforms (Second Amendment) Act, 1976 (Karnataka Act 27 of 1976).
142. The Kerala Prevention of Eviction Act, 1966 (Kerala Act 12 of 1966).
143. The Thiruppuvaram Payment (Abolition) Act, 1969 (Kerala Act 19 of 1969).
144. The Sreepadam Lands Enfranchisement Act, 1969 (Kerala Act 20 of 1969).
145. The Sree Pandaravaka Lands (Vesting and Enfranchisement) Act, 1971 (Kerala Act 20 of 1971).
146. The Kerala Private Forests (Vesting and Assignment) Act, 1971 (Kerala Act 26 of 1971).
147. The Kerala Agricultural Workers Act, 1974 (Kerala Act 18 of 1974).
148. The Kerala Cashew Factories (Acquisition) Act, 1974 (Kerala Act 29 of 1974).
149. The Kerala Chitties Act, 1975 (Kerala Act 23 of 1975).
150. The Kerala Scheduled Tribes (Restriction on Transfer of Lands and Restoration of Alienated Lands) Act, 1975 (Kerala Act 31 of 1975).

151. The Kerala Land Reforms (Amendment) Act, 1976 (Kerala Act 15 of 1976).
152. The Kanam Tenancy Abolition Act, 1976 (Kerala Act 16 of 1976).
153. The Madhya Pradesh Ceiling on Agricultural Holdings (Amendment) Act, 1974 (Madhya Pradesh Act 20 of 1974).
154. The Madhya Pradesh Ceiling on Agricultural Holdings (Amendment) Act, 1975 (Madhya Pradesh Act 2 of 1976).
155. The West Khandesh Mehwassi Estates (Proprietary Rights Abolition, etc.) Regulation, 1961 (Maharashtra Regulation 1 of 1962).
156. The Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974 (Maharashtra Act XIV of 1975).
157. The Maharashtra Agricultural Lands (Lowering of Ceiling on Holdings) and (Amendment) Act, 1972 (Maharashtra Act XXI of 1975).
158. The Maharashtra Private Forest (Acquisition) Act, 1975 (Maharashtra Act XXIX of 1975).
159. The Maharashtra Agricultural Lands (Lowering of Ceiling on Holdings) and (Amendment) Amendment Act, 1975 (Maharashtra Act XLVII of 1975).
160. The Maharashtra Agricultural Lands (Ceiling on Holdings) (Amendment) Act, 1975 (Maharashtra Act II of 1976).
161. The Orissa Estates Abolition Act, 1951 (Orissa Act I of 1952).
162. The Rajasthan Colonisation Act, 1954 (Rajasthan Act XXVII of 1954).
163. The Rajasthan Land Reforms and Acquisition of Landowners' Estates Act, 1963 (Rajasthan Act 11 of 1964).
164. The Rajasthan Imposition of Ceiling on Agricultural Holdings (Amendment) Act, 1976 (Rajasthan Act 8 of 1976).
165. The Rajasthan Tenancy (Amendment) Act, 1976 (Rajasthan Act 12 of 1976).
166. The Tamil Nadu Land Reforms (Reduction of Ceiling on Land) Act, 1970 (Tamil Nadu Act 17 of 1970).
167. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1971 (Tamil Nadu Act 41 of 1971).

168. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1972 (Tamil Nadu Act 10 of 1972).

169. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Second Amendment Act, 1972 (Tamil Nadu Act 20 of 1972).

170. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Third Amendment Act, 1972 (Tamil Nadu Act 37 of 1972).

171. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Fourth Amendment Act, 1972 (Tamil Nadu Act 39 of 1972).

172. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Sixth Amendment Act, 1972 (Tamil Nadu Act 7 of 1974).

173. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Fifth Amendment Act, 1972 (Tamil Nadu Act 10 of 1974).

174. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1974 (Tamil Nadu Act 15 of 1974).

175. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Third Amendment Act, 1974 (Tamil Nadu Act 30 of 1974).

176. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Second Amendment Act, 1974 (Tamil Nadu Act 32 of 1974).

177. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1975 (Tamil Nadu Act 11 of 1975).

178. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Second Amendment Act, 1975 (Tamil Nadu Act 21 of 1975).

179. Amendments made to the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 (Uttar Pradesh Act I of 1951) by the Uttar Pradesh Land Laws (Amendment) Act, 1971 (Uttar Pradesh Act 21 of 1971) and the Uttar Pradesh Land Laws (Amendment) Act, 1974 (Uttar Pradesh Act 34 of 1974).

180. The Uttar Pradesh Imposition of Ceiling on Land Holdings (Amendment) Act, 1976 (Uttar Pradesh Act 20 of 1976).

181. The West Bengal Land Reforms (Second Amendment) Act, 1972 (West Bengal Act XXVIII of 1972).

182. The West Bengal Restoration of Alienated Land Act, 1973 (West Bengal Act XXIII of 1973).

183. The West Bengal Land Reforms (Amendment) Act, 1974 (West Bengal Act XXXIII of 1974).

184. The West Bengal Land Reforms (Amendment) Act, 1975 (West Bengal Act XXIII of 1975).

185. The West Bengal Land Reforms (Amendment) Act, 1976 (West Bengal Act XII of 1976).

186. The Delhi Land Holdings (Ceiling) Amendment Act, 1976 (Central Act 15 of 1976).

187. The Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1975 (Goa, Daman and Diu Act 1 of 1976).

188. The Pondicherry Land Reforms (Fixation of Ceiling on Land) Act, 1973 (Pondicherry Act 9 of 1974).]

<sup>1</sup>[189. The Assam (Temporarily Settled Areas) Tenancy Act, 1971 (Assam Act XXIII of 1971).

190. The Assam (Temporarily Settled Areas) Tenancy (Amendment) Act, 1974 (Assam Act XVIII of 1974).

191. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Amending Act, 1974 (Bihar Act 13 of 1975).

192. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1976 (Bihar Act 22 of 1976).

193. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1978 (Bihar Act VII of 1978).

194. The Land Acquisition (Bihar Amendment) Act, 1979 (Bihar Act 2 of 1980).

195. The Haryana Ceiling on Land Holdings (Amendment) Act, 1977 (Haryana Act 14 of 1977).

196. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1978 (Tamil Nadu Act 25 of 1978).

197. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1979 (Tamil Nadu Act 11 of 1979).

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1. Entries 189 to 202 were ins. by the Constitution (Forty-seventh Amendment) Act, 1984, s. 2 (w.e.f. 26-8-1984).



198. The Uttar Pradesh Zamindari Abolition Laws (Amendment) Act, 1978 (Uttar Pradesh Act 15 of 1978).

199. The West Bengal Restoration of Alienated Land (Amendment) Act, 1978 (West Bengal Act XXIV of 1978).

200. The West Bengal Restoration of Alienated Land (Amendment) Act, 1980 (West Bengal Act LVI of 1980).

201. The Goa, Daman and Diu Agricultural Tenancy Act, 1964 (Goa, Daman and Diu Act 7 of 1964).

202. The Goa, Daman and Diu Agricultural Tenancy (Fifth Amendment) Act, 1976 (Goa, Daman and Diu Act 17 of 1976).]

<sup>1</sup>[203. The Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 (Andhra Pradesh Regulation 1 of 1959).

204. The Andhra Pradesh Scheduled Areas Laws (Extension and Amendment) Regulation, 1963 (Andhra Pradesh Regulation 2 of 1963).

205. The Andhra Pradesh Scheduled Areas Land Transfer (Amendment) Regulation, 1970 (Andhra Pradesh Regulation 1 of 1970).

206. The Andhra Pradesh Scheduled Areas Land Transfer (Amendment) Regulation, 1971 (Andhra Pradesh Regulation 1 of 1971).

207. The Andhra Pradesh Scheduled Areas Land Transfer (Amendment) Regulation, 1978 (Andhra Pradesh Regulation 1 of 1978).

208. The Bihar Tenancy Act, 1885 (Bihar Act 8 of 1885).

209. The Chota Nagpur Tenancy Act, 1908 (Bengal Act 6 of 1908) (Chapter VIII—sections 46, 47, 48, 48A and 49; Chapter X—sections 71, 71A and 71B; and Chapter XVIII—sections 240, 241 and 242).

210. The Santhal Parganas Tenancy (Supplementary Provisions) Act, 1949 (Bihar Act 14 of 1949) except section 53.

211. The Bihar Scheduled Areas Regulation, 1969 (Bihar Regulation 1 of 1969).

212. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1982 (Bihar Act 55 of 1982).

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1. Entries 203 to 257 were ins. by the Constitution (Sixty-sixth Amendment) Act, 1990, s. 2 (w.e.f. 7-6-1990).

213. The Gujarat Devasthan Inams Abolition Act, 1969 (Gujarat Act 16 of 1969).
214. The Gujarat Tenancy Laws (Amendment) Act, 1976 (Gujarat Act 37 of 1976).
215. The Gujarat Agricultural Lands Ceiling (Amendment) Act, 1976 (President's Act 43 of 1976).
216. The Gujarat Devasthan Inams Abolition (Amendment) Act, 1977 (Gujarat Act 27 of 1977).
217. The Gujarat Tenancy Laws (Amendment) Act, 1977 (Gujarat Act 30 of 1977).
218. The Bombay Land Revenue (Gujarat Second Amendment) Act, 1980 (Gujarat Act 37 of 1980).
219. The Bombay Land Revenue Code and Land Tenure Abolition Laws (Gujarat Amendment) Act, 1982 (Gujarat Act 8 of 1982).
220. The Himachal Pradesh Transfer of Land (Regulation) Act, 1968 (Himachal Pradesh Act 15 of 1969).
221. The Himachal Pradesh Transfer of Land (Regulation) (Amendment) Act, 1986 (Himachal Pradesh Act 16 of 1986).
222. The Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978 (Karnataka Act 2 of 1979).
223. The Kerala Land Reforms (Amendment) Act, 1978 (Kerala Act 13 of 1978).
224. The Kerala Land Reforms (Amendment) Act, 1981 (Kerala Act 19 of 1981).
225. The Madhya Pradesh Land Revenue Code (Third Amendment) Act, 1976 (Madhya Pradesh Act 61 of 1976).
226. The Madhya Pradesh Land Revenue Code (Amendment) Act, 1980 (Madhya Pradesh Act 15 of 1980).
227. The Madhya Pradesh Akrishik Jot Uchchatam Seema Adhiniyam, 1981 (Madhya Pradesh Act 11 of 1981).
228. The Madhya Pradesh Ceiling on Agricultural Holdings (Second Amendment) Act, 1976 (Madhya Pradesh Act 1 of 1984).
229. The Madhya Pradesh Ceiling on Agricultural Holdings (Amendment) Act, 1984 (Madhya Pradesh Act 14 of 1984).

230. The Madhya Pradesh Ceiling on Agricultural Holdings (Amendment) Act, 1989 (Madhya Pradesh Act 8 of 1989).

231. The Maharashtra Land Revenue Code, 1966 (Maharashtra Act 41 of 1966), sections 36, 36A and 36B.

232. The Maharashtra Land Revenue Code and the Maharashtra Restoration of Lands to Scheduled Tribes (Second Amendment) Act, 1976 (Maharashtra Act 30 of 1977).

233. The Maharashtra Abolition of Subsisting Proprietary Rights to Mines and Minerals in certain Lands Act, 1985 (Maharashtra Act 16 of 1985).

234. The Orissa Scheduled Areas Transfer of Immovable Property (by Scheduled Tribes) Regulation, 1956 (Orissa Regulation 2 of 1956).

235. The Orissa Land Reforms (Second Amendment) Act, 1975 (Orissa Act 29 of 1976).

236. The Orissa Land Reforms (Amendment) Act, 1976 (Orissa Act 30 of 1976).

237. The Orissa Land Reforms (Second Amendment) Act, 1976 (Orissa Act 44 of 1976).

238. The Rajasthan Colonisation (Amendment) Act, 1984 (Rajasthan Act 12 of 1984).

239. The Rajasthan Tenancy (Amendment) Act, 1984 (Rajasthan Act 13 of 1984).

240. The Rajasthan Tenancy (Amendment) Act, 1987 (Rajasthan Act 21 of 1987).

241. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Second Amendment Act, 1979 (Tamil Nadu Act 8 of 1980).

242. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1980 (Tamil Nadu Act 21 of 1980).

243. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1981 (Tamil Nadu Act 59 of 1981).

244. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Second Amendment Act, 1983 (Tamil Nadu Act 2 of 1984).

245. The Uttar Pradesh Land Laws (Amendment) Act, 1982 (Uttar Pradesh Act 20 of 1982).

246. The West Bengal Land Reforms (Amendment) Act, 1965 (West Bengal Act 18 of 1965).

247. The West Bengal Land Reforms (Amendment) Act, 1966 (West Bengal Act 11 of 1966).

248. The West Bengal Land Reforms (Second Amendment) Act, 1969 (West Bengal Act 23 of 1969).

249. The West Bengal Estate Acquisition (Amendment) Act, 1977 (West Bengal Act 36 of 1977).

250. The West Bengal Land Holding Revenue Act, 1979 (West Bengal Act 44 of 1979).

251. The West Bengal Land Reforms (Amendment) Act, 1980 (West Bengal Act 41 of 1980).

252. The West Bengal Land Holding Revenue (Amendment) Act, 1981 (West Bengal Act 33 of 1981).

253. The Calcutta Thikka Tenancy (Acquisition and Regulation) Act, 1981 (West Bengal Act 37 of 1981).

254. The West Bengal Land Holding Revenue (Amendment) Act, 1982 (West Bengal Act 23 of 1982).

255. The Calcutta Thikka Tenancy (Acquisition and Regulation) (Amendment) Act, 1984 (West Bengal Act 41 of 1984).

256. The Mahe Land Reforms Act, 1968 (Pondicherry Act 1 of 1968).

257. The Mahe Land Reforms (Amendment) Act, 1980 (Pondicherry Act 1 of 1981).]

<sup>1</sup>[257A. The Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of Seats in Educational Institutions and of appointments or posts in the Services under the State) Act, 1993 (Tamil Nadu Act 45 of 1994).]

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1. Entry 257A ins. by the Constitution (Seventy-sixth Amendment) Act, 1994, s. 2 (w.e.f. 31-8-1994).

<sup>1</sup>[258. The Bihar Privileged Persons Homestead Tenancy Act, 1947 (Bihar Act 4 of 1948).

259. The Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (Bihar Act 22 of 1956).

260. The Bihar Consolidation of Holdings and Prevention of Fragmentation (Amendment) Act, 1970 (Bihar Act 7 of 1970).

261. The Bihar Privileged Persons Homestead Tenancy (Amendment) Act, 1970 (Bihar Act 9 of 1970).

262. The Bihar Consolidation of Holdings and Prevention of Fragmentation (Amendment) Act, 1973 (Bihar Act 27 of 1975).

263. The Bihar Consolidation of Holdings and Prevention of Fragmentation (Amendment) Act, 1981 (Bihar Act 35 of 1982).

264. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1987 (Bihar Act 21 of 1987).

265. The Bihar Privileged Persons Homestead Tenancy (Amendment) Act, 1989 (Bihar Act 11 of 1989).

266. The Bihar Land Reforms (Amendment) Act, 1989 (Bihar Act 11 of 1990).

267. The Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) (Amendment) Act, 1984 (Karnataka Act 3 of 1984).

268. The Kerala Land Reforms (Amendment) Act, 1989 (Kerala Act 16 of 1989).

269. The Kerala Land Reforms (Second Amendment) Act, 1989 (Kerala Act 2 of 1990).

270. The Orissa Land Reforms (Amendment) Act, 1989 (Orissa Act 9 of 1990).

271. The Rajasthan Tenancy (Amendment) Act, 1979 (Rajasthan Act 16 of 1979).

272. The Rajasthan Colonisation (Amendment) Act, 1987 (Rajasthan Act 2 of 1987).

273. The Rajasthan Colonisation (Amendment) Act, 1989 (Rajasthan Act 12 of 1989).

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1. Entries 258 to 284 ins. by the Constitution (Seventy-eighth Amendment) Act, 1995, s. 2 (w.e.f. 30-8-1995).

274. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1983 (Tamil Nadu Act 3 of 1984).

275. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1986 (Tamil Nadu Act 57 of 1986).

276. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Second Amendment Act, 1987 (Tamil Nadu Act 4 of 1988).

277. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) (Amendment) Act, 1989 (Tamil Nadu Act 30 of 1989).

278. The West Bengal Land Reforms (Amendment) Act, 1981 (West Bengal Act 50 of 1981).

279. The West Bengal Land Reforms (Amendment) Act, 1986 (West Bengal Act 5 of 1986).

280. The West Bengal Land Reforms (Second Amendment) Act, 1986 (West Bengal Act 19 of 1986).

281. The West Bengal Land Reforms (Third Amendment) Act, 1986 (West Bengal Act 35 of 1986).

282. The West Bengal Land Reforms (Amendment) Act, 1989 (West Bengal Act 23 of 1989).

283. The West Bengal Land Reforms (Amendment) Act, 1990 (West Bengal Act 24 of 1990).

284. The West Bengal Land Reforms Tribunal Act, 1991 (West Bengal Act 12 of 1991).]

*Explanation:*—Any acquisition made under the Rajasthan Tenancy Act, 1955 (Rajasthan Act 3 of 1955), in contravention of the second proviso to clause(1) of article 31A shall, to the extent of the contravention, be void.]

<sup>1</sup>[TENTH SCHEDULE  
[Articles 102(2) and 191(2)]]

**Provisions as to disqualification on ground of defection**

**1. Interpretation.**—In this Schedule, unless the context otherwise requires,—

(a) "House" means either House of Parliament or the Legislative Assembly or, as the case may be, either House of the Legislature of a State;

(b) "legislature party", in relation to a member of a House belonging to any political party in accordance with the provisions of paragraph 2 or <sup>2\*\*\*</sup> paragraph 4, means the group consisting of all the members of that House for the time being belonging to that political party in accordance with the said provisions;

(c) "original political party", in relation to a member of a House, means the political party to which he belongs for the purposes of sub-paragraph (1) of paragraph 2;

(d) "paragraph" means a paragraph of this Schedule.

**2. Disqualification on ground of defection.**—(1) Subject to the provisions of <sup>3</sup>[paragraphs 4 and 5], a member of a House belonging to any political party shall be disqualified for being a member of the House—

(a) if he has voluntarily given up his membership of such political party; or

(b) if he votes or abstains from voting in such House contrary to any direction issued by the political party to which he belongs or by any person or authority authorised by it in this behalf, without obtaining, in either case, the prior permission of such political party, person or authority and such voting or abstention has not been condoned by such political party, person or authority within fifteen days from the date of such voting or abstention.

*Explanation.*—For the purposes of this sub-paragraph,—

(a) an elected member of a House shall be deemed to belong to the political party, if any, by which he was set up as a candidate for election as such member;

(b) a nominated member of a House shall,—

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1. Tenth Schedule added by the Constitution (Fifty-second Amendment) Act, 1985, s. 6 (w.e.f. 1-3-1985).

2. Certain words omitted by the Constitution (Ninety-first Amendment) Act, 2003, s. 5 (w.e.f. 1-1-2004).

3. Subs. by s. 5, *ibid.*, for "paragraphs 3, 4 and 5" (w.e.f. 1-1-2004).

(i) where he is a member of any political party on the date of his nomination as such member, be deemed to belong to such political party;

(ii) in any other case, be deemed to belong to the political party of which he becomes, or, as the case may be, first becomes, a member before the expiry of six months from the date on which he takes his seat after complying with the requirements of article 99 or, as the case may be, article 188.

(2) An elected member of a House who has been elected as such otherwise than as a candidate set up by any political party shall be disqualified for being a member of the House if he joins any political party after such election.

(3) A nominated member of a House shall be disqualified for being a member of the House if he joins any political party after the expiry of six months from the date on which he takes his seat after complying with the requirements of article 99 or, as the case may be, article 188.

(4) Notwithstanding anything contained in the foregoing provisions of this paragraph, a person who, on the commencement of the Constitution (Fifty-second Amendment) Act, 1985, is a member of a House (whether elected or nominated as such) shall,—

(i) where he was a member of political party immediately before such commencement, be deemed, for the purposes of sub-paragraph (1) of this paragraph, to have been elected as a member of such House as a candidate set up by such political party;

(ii) in any other case, be deemed to be an elected member of the House who has been elected as such otherwise than as a candidate set up by any political party for the purposes of sub-paragraph (2) of this paragraph or, as the case may be, be deemed to be a nominated member of the House for the purposes of sub-paragraph (3) of this paragraph.

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**4. Disqualification on ground of defection not to apply in case of merger.**— (1) A member of a House shall not be disqualified under sub-paragraph (1) of paragraph 2 where his original political party merges with another political party and he claims that he and any other members of his original political party—

(a) have become members of such other political party or, as the case may be, of a new political party formed by such merger; or

(b) have not accepted the merger and opted to function as a separate group,

1. Paragraph 3 omitted by the Constitution (Ninety-first Amendment) Act, 2003, s. 5 (w.e.f. 1-1-2004).



and from the time of such merger, such other political party or new political party or group, as the case may be, shall be deemed to be the political party to which he belongs for the purposes of sub-paragraph (1) of paragraph 2 and to be his original political party for the purposes of this sub-paragraph.

(2) For the purposes of sub-paragraph (1) of this paragraph, the merger of the original political party of a member of a House shall be deemed to have taken place if, and only if, not less than two-thirds of the members of the legislature party concerned have agreed to such merger.

**5. Exemption.**—Notwithstanding anything contained in this Schedule, a person who has been elected to the office of the Speaker or the Deputy Speaker of the House of the People or the Deputy Chairman of the Council of States or the Chairman or the Deputy Chairman of the Legislative Council of a State or the Speaker or the Deputy Speaker of the Legislative Assembly of a State, shall not be disqualified under this Schedule,—

(a) if he, by reason of his election to such office, voluntarily gives up the membership of the political party to which he belonged immediately before such election and does not, so long as he continues to hold such office thereafter, rejoin that political party or become a member of another political party; or

(b) if he, having given up by reason of his election to such office his membership of the political party to which he belonged immediately before such election, rejoins such political party after he ceases to hold such office.

**6. Decision on questions as to disqualification on ground of defection.**—(1) If any question arises as to whether a member of a House has become subject to disqualification under this Schedule, the question shall be referred for the decision of the Chairman or, as the case may be, the Speaker of such House and his decision shall be final:

Provided that where the question which has arisen is as to whether the Chairman or the Speaker of a House has become subject to such disqualification, the question shall be referred for the decision of such member of the House as the House may elect in this behalf and his decision shall be final.

(2) All proceedings under sub-paragraph (1) of this paragraph in relation to any question as to disqualification of a member of a House under this Schedule shall be deemed to be proceedings in Parliament within the meaning of article 122 or, as the case may be, proceedings in the Legislature of a State within the meaning of article 212.

**\*7. Bar of jurisdiction of courts.**—Notwithstanding anything in this Constitution, no court shall have any jurisdiction in respect of any matter connected with the disqualification of a member of a House under this Schedule.

**8. Rules.**—(1) Subject to the provisions of sub-paragraph (2) of this paragraph, the Chairman or the Speaker of a House may make rules for giving effect to the provisions of this Schedule, and in particular, and without prejudice to the generality of the foregoing, such rules may provide for—

(a) the maintenance of registers or other records as to the political parties, if any, to which different members of the House belong;

(b) the report which the leader of a legislature party in relation to a member of a House shall furnish with regard to any condonation of the nature referred to in clause (b) of sub-paragraph (1) of paragraph 2 in respect of such member, the time within which and the authority to whom such report shall be furnished;

(c) the reports which a political party shall furnish with regard to admission to such political party of any members of the House and the officer of the House to whom such reports shall be furnished; and

(d) the procedure for deciding any question referred to in sub-paragraph (1) of paragraph 6 including the procedure for any inquiry which may be made for the purpose of deciding such question.

(2) The rules made by the Chairman or the Speaker of a House under sub-paragraph (1) of this paragraph shall be laid as soon as may be after they are made before the House for a total period of thirty days which may be comprised in one session or in two or more successive sessions and shall take effect upon the expiry of the said period of thirty days unless they are sooner approved with or without modifications or disapproved by the House and where they are so approved, they shall take effect on such approval in the form in which they were laid or in such modified form, as the case may be, and where they are so disapproved, they shall be of no effect.

(3) The Chairman or the Speaker of a House may, without prejudice to the provisions of article 105 or, as the case may be, article 194, and to any other power which he may have under this Constitution direct that any wilful contravention by any person of the rules made under this paragraph may be dealt with in the same manner as a breach of privilege of the House.]

\* Paragraph 7 declared invalid for want of ratification in accordance with the proviso to clause (2) of article 368 as per majority opinion in *Kihoto Hollohon Vs. Zachilhu and Others* A.I.R. 1993 SC 412.

### <sup>1</sup>[ELEVENTH SCHEDULE

(Article 243G)

1. Agriculture, including agricultural extension.
2. Land improvement, implementation of land reforms, land consolidation and soil conservation.
3. Minor irrigation, water management and watershed development.
4. Animal husbandry, dairying and poultry.
5. Fisheries.
6. Social forestry and farm forestry.
7. Minor forest produce.
8. Small scale industries, including food processing industries.
9. Khadi, village and cottage industries.
10. Rural housing.
11. Drinking water.
12. Fuel and fodder.
13. Roads, culverts, bridges, ferries, waterways and other means of communication.
14. Rural electrification, including distribution of electricity.
15. Non-conventional energy sources.
16. Poverty alleviation programme.
17. Education, including primary and secondary schools.
18. Technical training and vocational education.
19. Adult and non-formal education.
20. Libraries.
21. Cultural activities.
22. Markets and fairs.
23. Health and sanitation, including hospitals, primary health centres and dispensaries.
24. Family welfare.
25. Women and child development.
26. Social welfare, including welfare of the handicapped and mentally retarded.
27. Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.
28. Public distribution system.
29. Maintenance of community assets.]

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1. Eleventh Schedule added by the Constitution (Seventy-third Amendment) Act, 1992, s. 4 (w.e.f. 24-4-1993).

## <sup>1</sup>[TWELFTH SCHEDULE

(Article 243W)

1. Urban planning including town planning.
2. Regulation of land-use and construction of buildings.
3. Planning for economic and social development.
4. Roads and bridges.
5. Water supply for domestic, industrial and commercial purposes.
6. Public health, sanitation conservancy and solid waste management.
7. Fire services.
8. Urban forestry, protection of the environment and promotion of ecological aspects.
9. Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.
10. Slum improvement and upgradation.
11. Urban poverty alleviation.
12. Provision of urban amenities and facilities such as parks, gardens, playgrounds.
13. Promotion of cultural, educational and aesthetic aspects.
14. Burials and burial grounds; cremations, cremation grounds; and electric crematoriums.
15. Cattle pounds; prevention of cruelty to animals.
16. Vital statistics including registration of births and deaths.
17. Public amenities including street lighting, parking lots, bus stops and public conveniences.
18. Regulation of slaughter houses and tanneries.]

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1. Twelfth Schedule added by the Constitution (Seventy-fourth Amendment) Act, 1992, s. 4 (w.e.f. 1-6-1993).

**APPENDIX I**  
**THE CONSTITUTION ( ONE HUNDREDTH AMENDMENT)**  
**ACT, 2015**

[28th May, 2015.]

An Act further to amend the Constitution of India to give effect to the acquiring of territories by India and transfer of certain territories to Bangladesh in pursuance of the agreement and its protocol entered into between the Governments of India and Bangladesh.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

**1. Short title.**—This Act may be called the Constitution (One Hundredth Amendment) Act, 2015.

**2. Definitions.**—In this Act,—

(a) “acquired territory” means so much of the territories comprised in the India-Bangladesh agreement and its protocol and referred to in the First Schedule as are demarcated for the purpose of being acquired by India from Bangladesh in pursuance of the agreement and its protocol referred to in clause (c);

(b) “appointed day” means such date as the Central Government may, by notification in the Official Gazette, appoint as the date for acquisition of territories from Bangladesh and transfer of the territories to Bangladesh in pursuance of the India-Bangladesh agreement and its protocol, after causing the territories to be so acquired and transferred as referred to in the First Schedule and Second Schedule and demarcated for the purpose;

(c) “India-Bangladesh agreement” means the agreement between the Government of the Republic of India and the Government of the People’s Republic of Bangladesh concerning the Demarcation of the Land Boundary between India and Bangladesh and Related Matters dated the 16th day of May, 1974, Exchange of Letters dated the 26th day of December, 1974, the 30th day of December, 1974, the 7th day of October, 1982, the 26th day of March, 1992 and protocol to the said agreement dated the 6th day of September, 2011, entered into between the Governments of India and Bangladesh, the relevant extracts of which are set out in the Third Schedule;

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\* 31<sup>st</sup> day of July, 2015, *vide* notification No. S.O. 2094(E), dated 31<sup>st</sup> July, 2015.

(d) “transferred territory”, means so much of the territories comprised in the India-Bangladesh agreement and its protocol and referred to in the Second Schedule as are demarcated for the purpose of being transferred by India to Bangladesh in pursuance of the agreements and its protocol referred to in clause (c).

**3. Amendment of First Schedule to Constitution.**— As from the appointed day, in the First Schedule to the Constitution,—

(a) in the paragraph relating to the territories of the State of Assam, the words, brackets and figures “and the territories referred to in Part I of the Second Schedule to the Constitution (One Hundredth Amendment) Act, 2015, notwithstanding anything contained in clause (a) of section 3 of the Constitution (Ninth Amendment) Act, 1960, so far as it relates to the territories referred to in Part I of the Second Schedule to the Constitution (One Hundredth Amendment) Act, 2015”, shall be added at the end;

(b) in the paragraph relating to the territories of the State of West Bengal, the words, brackets and figures “and also the territories referred to in Part III of the First Schedule but excluding the territories referred to in Part III of the Second Schedule to the Constitution (One Hundredth Amendment) Act, 2015, notwithstanding anything contained in clause (c) of section 3 of the Constitution (Ninth Amendment) Act, 1960, so far as it relates to the territories referred to in Part III of the First Schedule and the territories referred to in Part III of the Second Schedule to the Constitution (One Hundredth Amendment) Act, 2015”, shall be added at the end;

(c) in the paragraph relating to the territories of the State of Meghalaya, the words, brackets and figures “and the territories referred to in Part I of the First Schedule but excluding the territories referred to in Part II of the Second Schedule to the Constitution (One Hundredth Amendment) Act, 2015”, shall be added at the end;

(d) in the paragraph relating to the territories of the State of Tripura, the words, brackets and figures “and the territories referred to in Part II of the First Schedule to the Constitution (One Hundredth Amendment) Act, 2015, notwithstanding anything contained in clause (d) of section 3 of the Constitution (Ninth Amendment) Act, 1960, so far as it relates to the territories referred to in Part II of the First Schedule to the Constitution (One Hundredth Amendment) Act, 2015”, shall be added at the end.

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(Appendix I)

**THE FIRST SCHEDULE**

[See sections 2(a), 2(b) and 3]

**PART I**

The acquired territory in relation to Article 2 of the agreement dated the 16th day of May, 1974 and Article 3 (I) (b) (ii) (iii) (iv) (v) of the protocol dated the 6th day of September, 2011.

**PART II**

The acquired territory in relation to Article 2 of the agreement dated the 16th day of May, 1974 and Article 3 (I) (c) (i) of the protocol dated the 6th day of September, 2011.

**PART III**

The acquired territory in relation to Articles 1(12) and 2 of the agreement dated the 16th day of May, 1974 and Articles 2 (II), 3 (I) (a) (iii) (iv) (v) (vi) of the protocol dated the 6th day of September, 2011.

**THE SECOND SCHEDULE**

[See sections 2(b), 2(d) and 3]

**PART I**

The transferred territory in relation to Article 2 of the agreement dated 16th day of May, 1974 and Article 3 (I) (d) (i) (ii) of the protocol dated 6th day of September, 2011.

**PART II**

The transferred territory in relation to Article 2 of the agreement dated the 16th day of May, 1974 and Article 3 (I) (b) (i) of the protocol dated 6th day of September, 2011.

**PART III**

The transferred territory in relation to Articles 1(12) and 2 of the agreement dated the 16th day of May, 1974 and Articles 2 (II), 3 (I) (a) (i) (ii) (vi) of the protocol dated the 6th day of September, 2011.

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(Appendix I)

**THE THIRD SCHEDULE**

[See section 2(c)]

I. EXTRACTS FROM THE AGREEMENT BETWEEN GOVERNMENT OF THE REPUBLIC OF INDIA AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH CONCERNING THE DEMARCATION OF THE LAND BOUNDARY BETWEEN INDIA AND BANGLADESH AND RELATED MATTERS DATED THE 16TH DAY OF MAY, 1974

**Article 1 (12): ENCLAVES**

The Indian enclaves in Bangladesh and the Bangladesh enclaves in India should be exchanged expeditiously, excepting the enclaves mentioned in paragraph 14 without claim to compensation for the additional area going to Bangladesh.

**Article 2:**

The Governments of India and Bangladesh agree that territories in adverse possession in areas already demarcated in respect of which boundary strip maps are already prepared, shall be exchanged within six months of the signing of the boundary strip maps by the plenipotentiaries. They may sign the relevant maps as early as possible as and in any case not later than the 31st December, 1974. Early measures may be taken to print maps in respect of other areas where demarcation has already taken place. These should be printed by the 31st May, 1975 and signed by the plenipotentiaries thereafter in order that the exchange of adversely held possessions in these areas may take place by the 31st December, 1975. In sectors still to be demarcated, transfer of territorial jurisdiction may take place within six months of the signature by plenipotentiaries on the concerned boundary strip maps.

II. EXTRACTS FROM THE PROTOCOL TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDIA AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH CONCERNING THE DEMARCATION OF THE LAND BOUNDARY BETWEEN INDIA AND BANGLADESH AND RELATED MATTERS, DATED THE 6TH DAY OF SEPTEMBER, 2011

**Article 2:**

(II) Article 1 Clause 12 of the 1974 Agreement shall be implemented as follows:—



*Enclaves*

111 Indian Enclaves in Bangladesh and 51 Bangladesh Enclaves in India as per the jointly verified cadastral enclave maps and signed at the level of DGLR&S, Bangladesh and DLR&S, West Bengal (India) in April, 1997, shall be exchanged without claim to compensation for the additional areas going to Bangladesh.

## Article 3:

(I) Article 2 of the 1974 Agreement shall be implemented as follows:—

The Government of India and the Government of Bangladesh agree that the boundary shall be drawn as a fixed boundary for territories held in Adverse Possession as determined through joint survey and fully depicted in the respective adversely possessed land area Index Map (APL map) finalised by the Land Records and Survey Departments of both the countries between December, 2010 and August, 2011, which are fully described in clause (a) to (d) below.

The relevant strip maps shall be printed and signed by the Plenipotentiaries and transfer of territorial jurisdiction shall be completed simultaneously with the exchange of enclaves. The demarcation of the boundary, as depicted in the above-mentioned Index Maps, shall be as under:—

**(a) West Bengal Sector***(i) Bousmari – Madhugari (Kushtia-Nadia) area*

The boundary shall be drawn from the existing Boundary Pillar Nos. 154/5-S to 157/1-S to follow the centre of old course of river Mathabanga, as depicted in consolidation map of 1962, as surveyed jointly and agreed in June, 2011.

*(ii) Andharkota (Kushtia-Nadia) area*

The boundary shall be drawn from existing Boundary Pillar No. 152/5-S to Boundary Pillar No. 153/1-S to follow the edge of existing River Mathabanga as jointly surveyed and agreed in June, 2011.

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(Appendix I)

## (iii) *Pakuria (Kushtia-Nadia) area*

The boundary shall be drawn from existing Boundary Pillar No. 151/1-S to Boundary Pillar No. 152/2-S to follow the edge of River Mathabanga as jointly surveyed and agreed in June, 2011.

## (iv) *Char Mahishkundi (Kushtia-Nadia) area*

The boundary shall be drawn from existing Boundary Pillar No. 153/1-S to Boundary Pillar No. 153/9-S to follow the edge of River Mathabanga as jointly surveyed and agreed in June, 2011.

## (v) *Haripal/Khutadah/Battoli/Sapameri/LNpur (Patari) (Naogaon-Malda) area*

The boundary shall be drawn as line joining from existing Boundary Pillar No. 242/S/13, to Boundary Pillar No. 243/7-S/5 and as jointly surveyed and agreed in June, 2011.

## (vi) *Berubari (Panchagarh-Jalpaiguri area)*

The boundary in the area Berubari (Panchagarh-Jalpaiguri) adversely held by Bangladesh, and Berubari and Singhapara-Khudipara (Panchagarh-Jalpaiguri), adversely held by India shall be drawn as jointly demarcated during 1996-1998.

## (b) **Meghalaya Sector**

### (i) *Lobachera-Nuncherra*

The boundary from existing Boundary Pillar No. 1315/4-S to Boundary Pillar No. 1315/15-S in Lailong - Balichera, Boundary Pillar No. 1316/1-S to Boundary Pillar No. 1316/11-S in Lailong- Noonchera, Boundary Pillar No. 1317 to Boundary Pillar No. 1317/13-S in Lailong- Lahiling and Boundary Pillar No. 1318/1-S to Boundary Pillar No. 1318/2-S in Lailong- Lobhachera shall be drawn to follow the edge of tea gardens as jointly surveyed and agreed in December, 2010.

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### (Appendix I)

#### (ii) *Pyrdiwah/ Padua Area*

The boundary shall be drawn from existing Boundary Pillar No. 1270/1-S as per jointly surveyed and mutually agreed line till Boundary Pillar No. 1271/1-T. The Parties agree that the Indian Nationals from Pyrdiwah village shall be allowed to draw water from Piyang River near point No. 6 of the agreed Map.

#### (iii) *Lyngkhat Area*

##### (aa) *Lyngkhat-I/Kulumcherra and Lyngkhat-II/ Kulumcherra*

The boundary shall be drawn from existing Boundary Pillar No. 1264/4-S to Boundary Pillar No. 1265 and BP No. 1265/6-S to 1265/9-S as per jointly surveyed and mutually agreed line.

##### (ab) *Lyngkhat-III/Sonarhat*

The boundary shall be drawn from existing Boundary Pillar No. 1266/13-S along the nallah southwards till it meets another nallah in the east-west direction, thereafter it shall run along the northern edge of the nallah in east till it meets the existing International Boundary north of Reference Pillar Nos.1267/4-R-B and 1267/3-R-I.

#### (iv) *Dawki/Tamabil area*

The boundary shall be drawn by a straight line joining existing Boundary Pillar Nos. 1275/1-S to Boundary Pillar Nos. 1275/7-S. The Parties agree to fencing on 'zero line' in this area.

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(Appendix I)

## (v) *Naljuri/Sreepur Area*

### (aa) *Naljuri I*

The boundary shall be a line from the existing Boundary Pillar No. 1277/2-S in southern direction up to three plots as depicted in the strip Map No. 166 till it meets the nallah flowing from Boundary Pillar No. 1277/5-T, thereafter it will run along the western edge of the nallah in the southern direction up to 2 plots on the Bangladesh side, thereafter it shall run eastwards till it meets a line drawn in southern direction from Boundary Pillar No. 1277/4-S.

### (ab) *Naljuri III*

The boundary shall be drawn by a straight line from existing Boundary Pillar No. 1278/2-S to Boundary Pillar No. 1279/ 3-S.

## (vi) *Muktapur/ Dibir Hawor Area*

The Parties agree that the Indian Nationals shall be allowed to visit Kali Mandir and shall also be allowed to draw water and exercise fishing rights in the water body in the Muktapur / Dibir Hawor area from the bank of Muktapur side.

## (c) **Tripura Sector**

### *Chandannagar-Champarai Tea Garden area in Tripura/ Moulvi Bazar sector*

The boundary shall be drawn along Sonaraichhera river from existing Boundary Pillar No. 1904 to Boundary Pillar No. 1905 as surveyed jointly and agreed in July, 2011.

**(d) Assam Sector***(i) Kalabari (Boroibari) area in Assam sector*

The boundary shall be drawn from existing Boundary Pillar No. 1066/24-T to Boundary Pillar No. 1067/16-T as surveyed jointly and agreed in August, 2011.

*(ii) Pallathal area in Assam sector*

The boundary shall be drawn from existing Boundary Pillar No. 1370/3-S to 1371/ 6-S to follow the outer edge of the tea garden and from Boundary Pillar No. 1372 to 1373/2-S along outer edge of the pan plantation.

III. LIST OF EXCHANGE OF ENCLAVES BETWEEN INDIA AND BANGLADESH IN PURSUANT TO ARTICLE 1 (12) OF THE AGREEMENT DATED 16TH MAY, 1974 AND THE PROTOCOL TO THE AGREEMENT DATED 6TH SEPTEMBER, 2011

**A. EXCHANGEABLE INDIAN ENCLAVES IN BANGLADESH WITH AREA**

Sl.	Name of Chhits No.	Chhit No.	Lying within Police station Bangladesh	Lying within Police station W. Bengal	Area in acres
1	2	3	4	5	6

*A. Enclaves with independent chhits*

1.	Garati	75	Pochagar	Haldibari	58.23
2.	Garati	76	Pochagar	Haldibari	0.79
3.	Garati	77	Pochagar	Haldibari	18
4.	Garati	78	Pochagar	Haldibari	958.66
5.	Garati	79	Pochagar	Haldibari	1.74
6.	Garati	80	Pochagar	Haldibari	73.75
7.	Bingimari Part-I	73	Pochagar	Haldibari	6.07

1	2	3	4	5	6
8.	Nazirganja	41	Boda	Haldibari	58.32
9.	Nazirganja	42	Boda	Haldibari	434.29
10.	Nazirganja	44	Boda	Haldibari	53.47
11.	Nazirganja	45	Boda	Haldibari	1.07
12.	Nazirganja	46	Boda	Haldibari	17.95
13.	Nazirganja	47	Boda	Haldibari	3.89
14.	Nazirganja	48	Boda	Haldibari	73.27
15.	Nazirganja	49	Boda	Haldibari	49.05
16.	Nazirganja	50	Boda	Haldibari	5.05
17.	Nazirganja	51	Boda	Haldibari	0.77
18.	Nazirganja	52	Boda	Haldibari	1.04
19.	Nazirganja	53	Boda	Haldibari	1.02
20.	Nazirganja	54	Boda	Haldibari	3.87
21.	Nazirganja	55	Boda	Haldibari	12.18
22.	Nazirganja	56	Boda	Haldibari	54.04
23.	Nazirganja	57	Boda	Haldibari	8.27
24.	Nazirganja	58	Boda	Haldibari	14.22
25.	Nazirganja	60	Boda	Haldibari	0.52
26.	Putimari	59	Boda	Haldibari	122.8
27.	Daikhata Chhat	38	Boda	Haldibari	499.21
28.	Salbari	37	Boda	Haldibari	1188.93
29.	Kajal Dighi	36	Boda	Haldibari	771.44
30.	Nataktoka	32	Boda	Haldibari	162.26
31.	Nataktoka	33	Boda	Haldibari	0.26
32.	Beuladanga Chhat	35	Boda	Haldibari	0.83
33.	Balapara lagrabar	3	Debiganj	Haldibari	1752.44
34.	Bara Khankikharija Citaldaha	30	Dimla	Haldibari	7.71

1	2	3	4	5	6
35.	Bara Khankikharija Citaldaha	29	Dimla	Haldibari	36.83
36.	Barakhangir	28	Dimla	Haldibari	30.53
37.	Nagarjikobari	31	Dimla	Haldibari	33.41
38.	Kuchlibari	26	Patgram	Mekliganj	5.78
39.	Kuchlibari	27	Patgram	Mekliganj	2.04
40.	Bara Kuchlibari	Fragment of J.L. 107 of P.S Mekliganj	Patgram	Mekliganj	4.35
41.	Jamaldaha- Balapukhari	6	Patgram	Mekliganj	5.24
42.	Uponchowki kuchlibari	115/2	Patgram	Mekliganj	0.32
43.	Uponchowki kuchlibari	7	Patgram	Mekliganj	44.04
44.	Bhothnri	11	Patgram	Mekliganj	36.83
45.	Balapukhari	5	Patgram	Mekliganj	55.91
46.	Bara Khangir	4	Patgram	Mekliganj	50.51
47.	Bara Khangir	9	Patgram	Mekliganj	87.42
48.	Chhat Bogdokra	10	Patgram	Mekliganj	41.7
49.	Ratanpur	11	Patgram	Mekliganj	58.91
50.	Bogdokra	12	Patgram	Mekliganj	25.49
51.	Fulker Dabri	Fragment of J.L. 107 of P.S Mekliganj	Patgram	Mekliganj	0.88

1	2	3	4	5	6
52.	Kharkharia	15	Patgram	Mekliganj	60.74
53.	Kharkharia	13	Patgram	Mekliganj	51.62
54.	Lotamari	14	Patgram	Mekliganj	110.92
55.	Bhotbari	16	Patgram	Mekliganj	205.46
56.	Komat Changrabandha	16A	Patgram	Mekliganj	42.8
57.	Komat Changrabandha	17A	Patgram	Mekliganj	1601
58.	Panisala	17	Patgram	Mekliganj	137.66
59.	Dwarikamari Khasbash	18	Patgram	Mekliganj	36.5
60.	Panisala	153/P	Patgram	Mekliganj	0.27
61.	Panisala	153/O	Patgram	Mekliganj	18.01
62.	Panisala	19	Patgram	Mekliganj	64.63
63.	Panisala	21	Patgram	Mekliganj	51.4
64.	Lotamari	20	Patgram	Mekliganj	283.53
65.	Lotamari	22	Patgram	Mekliganj	98.85
66.	Dwarikamari	23	Patgram	Mekliganj	39.52
67.	Dwarikamari	25	Patgram	Mekliganj	45.73
68.	Chhat Bhothat	24	Patgram	Mekliganj	56.11
69.	Baakata	131	Patgram	Hathabhanga	22.35
70.	Baakata	132	Patgram	Hathabhanga	11.96
71.	Baakata	130	Patgram	Hathibhanga	20.48
72.	Bhogramguri	133	Patgram	Hathibhanga	1.44
73.	Chenakata	134	Patgram	Mekliganj	7.81
74.	Banskata	119	Patgram	Mathabanga	413.81
75.	Banskata	120	Patgram	Mathabanga	30.75
76.	Banskata	121	Patgram	Mathabanga	12.15
77.	Banskata	113	Patgram	Mathabanga	57.86
78.	Banskata	112	Patgram	Mathabanga	315.04
79.	Banskata	114	Patgram	Mathabanga	0.77



1	2	3	4	5	6
80.	Banskata	115	Patgram	Mathabanga	29.2
81.	Banskata	122	Patgram	Mathabanga	33.22
82.	Banskata	127	Patgram	Mathabanga	12.72
83.	Banskata	128	Patgram	Mathabanga	2.33
84.	Banskata	117	Patgram	Mathabanga	2.55
85.	Banskata	118	Patgram	Mathabanga	30.98
86.	Banskata	125	Patgram	Mathabanga	0.64
87.	Banskata	126	Patgram	Mathabanga	1.39
88.	Banskata	129	Patgram	Mathabanga	1.37
89.	Banskata	116	Patgram	Mathabanga	16.96
90.	Banskata	123	Patgram	Mathabanga	24.37
91.	Banskata	124	Patgram	Mathabanga	0.28
92.	Gotamari Chhit	135	Hatibandha	Sitalkuchi	126.59
93.	Gotamari Chhit	136	Hatibandha	Sitalkuchi	20.02
94.	Banapachai	151	Lalmonirhat	Dinhata	217.29
95.	Banapachai Bhitarkuthi	152	Lalmonirhat	Dinhata	81.71
96.	Dasiar Chhara	150	Fulbari	Dinhata	1643.44
97.	Dakurhat- Dakinirkuthi	156	Kurigram	Dinhata	14.27
98.	Kalamati	141	Bhurungamari	Dinhata	21.21
99.	Bhahobganj	153	Bhurungamari	Dinhata	31.58
100.	Baotikursa	142	Bhurungamari	Dinhata	45.63
101.	Bara Coachulka	143	Bhurungamari	Dinhata	39.99
102.	Gaochulka II	147	Bhurungamari	Dinhata	0.9
103.	Gaochulka I	146	Bhurungamari	Dinhata	8.92
104.	Dighaltari II	145	Bhurungamari	Dinhata	8.81
105.	Dighaltari I	144	Bhurungamari	Dinhata	12.31
106.	Chhoto Garaljhara II	149	Bhurungamari	Dinhata	17.85

1	2	3	4	5	6
107.	Chhoto Garaljhora I	148	Bhurungamari	Dinhata	35.74
108.	1 chhit* without name & JL No. at the southern and of JL No. 38 & southern and of JL No. 39 (locally known as Ashokabari**)		Patgram	Mathabhanga	3.5
<i>Enclaves with Fragmented Chhits</i>					
109.	(i) Bewladanga	34	Haldibari	Boda	862.46
	(ii) Bewladanga	Fragment	Haldibari	Debiganj	
110.	(i) Kotbhajni	2	Haldibari	Debiganj	2012.27
	(ii) Kotbhajni	Fragment	Haldibari	Debiganj	
	(iii) Kotbhajni	Fragment	Haldibari	Debiganj	
	(iv) Kotbhajni	Fragment	Haldibari	Debiganj	
111.	(i) Dahala	Khagrabri	Haldibari	Debiganj	2650.35
	(ii) Dahala	Fragment	Haldibari	Debiganj	
	(iii) Dahala	Fragment	Haldibari	Debiganj	
	(iv) Dahala	Fragment	Haldibari	Debiganj	

\* Corrected *vide* 150th (54th) India-Bangladesh Boundary Conference held at Kolkata from 29th September to 2nd October, 2002.

\*\* Corrected *vide* 152nd (56th) India-Bangladesh Boundary Conference held at Kochbihar, India from 18th—20th September, 2003.

1	2	3	4	5	6
	(v) Dahala	Fragment	Haldibari	Debiganj	
	(vi) Dahala	Fragment	Haldibari	Debiganj	
					17160.63

The above given details of enclaves have been jointly compared and reconciled with records held by India and Bangladesh during the Indo-Bangladesh Conference held at Calcutta during 9th—12th October, 1996 as well as during joint field inspection at Jalpaiguri (West Bengal) Panchagarh (Bangladesh) sector during 21—24 November, 1996.

*Note:* Name of enclave in Sl. No. 108 above has been identified as Ashokabari by joint ground verification during field season 1996-97.

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#### B. EXCHANGEABLE BANGLADESH ENCLAVES IN INDIA WITH AREA

Sl. No.	Name of Chhits	Lying within Police station W. Bengal	Lying within Police station Bangladesh	J.L. No.	Area in acres
1	2	3	4	5	6
<i>A. Enclaves with independent chhits</i>					
1.	Chhit Kuchlibari	Mekliganj	Patgram	22	370.64
2.	Chhit Land of Kuchlibari	Mekliganj	Patgram	24	1.83
3.	Balapukhari	Mekliganj	Patgram	21	331.64
4.	Chhit Land of Panbari No. 2	Mekliganj	Patgram	20	1.13

1	2	3	4	5	6
5.	Chhit Panbari	Mekliganj	Patgram	18	108.59
6.	Dhabalsati Mirgipur	Mekliganj	Patgram	15	173.88
7.	Bamandal	Mekliganj	Patgram	11	2.24
8.	Chhit Dhabalsati	Mekliganj	Patgram	14	66.58
9.	Dhabalsati	Mekliganj	Patgram	13	60.45
10.	Srirampur	Mekliganj	Patgram	8	1.05
11.	Jote Nijjama	Mekliganj	Patgram	3	87.54
12.	Chhit Land of Jagatber No. 3	Mathabhanga	Patgram	37	69.84
13.	Chhit Land of Jagatber No.1	Mathabhanga	Patgram	35	30.66
14.	Chhit Land of Jagatber No. 2	Mathabhanga	Patgram	36	27.09
15.	Chhit Kokoabari	Mathabhanga	Patgram	47	29.49
16.	Chhit Bhandardaha	Mathabhanga	Patgram	67	39.96
17.	Dhabalguri	Mathabhanga	Patgram	52	12.5
18.	Chhit Dhabalguri	Mathabhanga	Patgram	53	22.31
19.	Chhit Land of Dhabalguri No. 3	Mathabhanga	Patgram	70	1.33
20.	Chhit Land of Dhabalguri No. 4	Mathabhanga	Patgram	71	4.55
21.	Chhit Land of Dhabalguri No. 5	Mathabhanga	Patgram	72	4.12
22.	Chhit Land of Dhabalguri No. 1	Mathabhanga	Patgram	68	26.83
23.	Chhit Land of Dhabalguri No. 2	Mathabhanga	Patgram	69	13.95
24.	Mahishmari	Sitalkuchi	Patgram	54	122.77
25.	Bura Saradubi	Sitalkuchi	Hatibandha	13	34.96

1	2	3	4	5	6
26.	Falnapur	Sitalkuchi	Patgram	64	505.56
27.	Amjhol	Sitalkuchi	Hatibandha	57	1.25
28.	Kismat Batrigachh	Dinhata	Kaliganj	82	209.95
29.	Durgapur	Dinhata	Kaliganj	83	20.96
30.	Bansua Khamar Gitaldaha	Dinhata	Lalmonirhat	1	24.54
31.	Poaturkuthi	Dinhata	Lalmonirhat	37	589.94
32.	Paschim Bakalir Chhara	Dinhata	Bhurungamari	38	151.98
33.	Madhya Bakalir Chhara	Dinhata	Bhurungamari	39	32.72
34.	Purba Bakalir Chhara	Dinhata	Bhurungamari	40	12.23
35.	Madhya Masaldanga	Dinhata	Bhurungamari	3	136.66
36.	Madhya Chhit Masaldanga	Dinhata	Bhurungamari	8	11.87
37.	Paschim Chhit Masaldanga	Dinhata	Bhurungamari	7	7.6
38.	Uttar Masaldanga	Dinhata	Bhurungamari	2	27.29
39.	Kachua	Dinhata	Bhurungamari	5	119.74
40.	Uttar Bansjani	Tufanganj	Bhurungamari	1	47.17
41.	Chhat Tilai	Tufanganj	Bhurungamari	17	81.56
<i>B. Enclaves with Fragmented Chhits</i>					
42.	(i) Nalgram	Sitalkuchi	Patgarm	65	1397.34
	(ii) Nalgram (Fragment)	Sitalkuchi	Patgarm	65	
	(iii) Nalgram (Fragment)	Sitalkuchi	Patgarm	65	

1	2	3	4	5	6
43.	(i) Chhit Nalgram	Sitalkuchi	Patgarm	66	49.5
	(ii) Chhit Nalgram (Fragment)	Sitalkuchi	Patgarm	66	
44.	(i) Batrigachh	Dinhata	Kaliganj	81	577.37
	(ii) Batrigachh (Fragment)	Dinhata	Kaliganj	81	
	(iii) Batrigachh (Fragment)	Dinhata	Phulbari	9	
45.	(i) Karala	Dinhata	Phulbari	9	269.91
	(ii) Karala (fragment)	Dinhata	Phulbari	9	
	(iii) Karala (fragment)	Dinhata	Phulbari	8	
46.	(i) Sipprasad Mustati	Dinhata	Phulbari	8	373.2
	(ii) Sipprasad Mustati (Fragment)	Dinhata	Phulbari	6	
47.	(i) Dakshin Masaldanga	Dinhata	Bhurungamari	6	571.38
	(ii) Dakshin Masaldanga (Fragment)	Dinhata	Bhurungamari	6	
	(iii) Dakshin Masaldanga (Fragment)	Dinhata	Bhurungamari	6	
	(iv) Dakshin Masaldanga (Fragment)	Dinhata	Bhurungamari	6	
	(v) Dakshin Masaldanga (Fragment)	Dinhata	Bhurungamari	6	
	(vi) Dakshin Masaldanga (Fragment)	Dinhata	Bhurungamari	6	

1	2	3	4	5	6
48.	(i) Paschim Masaldanga	Dinhata	Bhurungamari	4	29.49
	(ii) Paschim Masaldanga (Fragment)	Dinhata	Bhurungamari	4	
49.	(i) Purba Chhit Masaldanga	Dinhata	Bhurungamari	10	35.01
	(ii) Purba Chhit Masaldanga (Fragment)	Dinhata	Bhurungamari	10	
50.	(i) Purba Masaldanga	Dinhata	Bhurungamari	11	153.89
	(ii) Purba Masaldanga (Fragment)	Dinhata	Bhurungamari	11	
51.	(i) Uttar Daldanga	Tufanganj	Bhurungamari	14	24.98
	(ii) Uttar Daldanga (Fragment)	Tufanganj	Bhurungamari	14	
	(iii) Uttar Daldanga (Fragment)	Tufanganj	Bhurungamari	14	
Total Area					7,110.02

The above given details of enclaves have been jointly compared and reconciled with records held by India and Bangladesh during the Indo-Bangladesh Conference held at Calcutta during 9th—12th October, 1996 as well as during joint field inspection at Jalpaiguri (West Bengal) – Panchagarh (Bangladesh) sector during 21—24 November, 1996.

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## APPENDIX II

### <sup>1</sup>THE CONSTITUTION (APPLICATION TO JAMMU AND KASHMIR) ORDER, 2019

C.O. 272

In exercise of the powers conferred by clause (1) of article 370 of the Constitution, the President, with the concurrence of the Government of State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Order, 2019.

(2) It shall come into force at once, and shall thereupon supersede the Constitution (Application to Jammu and Kashmir) Order, 1954 as amended from time to time.

2. All the provisions of the Constitution, as amended from time to time, shall apply in relation to the State of Jammu and Kashmir and the exceptions and modifications subject to which they shall so apply shall be as follows:—

To article 367, there shall be added the following clause, namely:—

“(4) For the purposes of this Constitution as it applies in relation to the State of Jammu and Kashmir—

(a) references to this Constitution or to the provisions thereof shall be construed as references to the Constitution or the provisions thereof as applied in relation to the said State;

(b) references to the person for the time being recognized 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, shall be construed as references to the Governor of Jammu and Kashmir;

(c) references to the Government of the said State shall be construed as including references to the Governor of Jammu and Kashmir acting on the advice of his Council of Ministers; and

(d) in proviso to clause (3) of article 370 of this Constitution, the expression “Constituent Assembly of the State referred to in clause (2)” shall read “Legislative Assembly of the State.”

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1. Published with the Ministry of Law and Justice, (Legislative Department) notification No. G.S.R. 551 (E), dated the 5th August, 2019, Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i).



### APPENDIX III

#### <sup>1</sup>DECLARATION UNDER ARTICLE 370(3) OF THE CONSTITUTION

C.O. 273

In exercise of the powers conferred by clause (3) of article 370 read with clause (1) of article 370 of the Constitution of India, the President, on the recommendation of Parliament, is pleased to declare that, as from the 6<sup>th</sup> August, 2019, all clauses of the said article 370 shall cease to be operative except the following which shall read as under, namely:—

“370. All provisions of this Constitution, as amended from time to time, without any modifications or exceptions, shall apply to the State of Jammu and Kashmir notwithstanding anything contrary contained in article 152 or article 308 or any other article of this Constitution or any other provision of the Constitution of Jammu and Kashmir or any law, document, judgement, ordinance, order, by-law, rule, regulation, notification, custom or usage having the force of law in the territory of India, or any other instrument, treaty or agreement as envisaged under article 363 or otherwise.”.

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1. Published with the Ministry of Law and Justice, (Legislative Department) notification No. G.S.R. 562(E), dated the 6th August, 2019, Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i).